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GENERAL

# PRELIMINARY REPORT

ON THE

## INVESTIGATION INTO THE MANAGEMENT

OF

# The Equitable Life Assurance Society of the United States

MADE TO THE

## GOVERNOR OF THE STATE OF NEW YORK

BY THE

## SUPERINTENDENT OF INSURANCE

AS OF JUNE 21, 1905

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STATE OF NEW YORK,

INSURANCE DEPARTMENT,

ALBANY, *June* 20, 1905.

To the Honorable FRANK W. HIGGINS, *Governor of the State of New York:*

Sir—The Equitable Assurance Society of the United States is one of the largest insurance companies of the country. It was examined by the Insurance Department in the year 1901 and found entirely solvent. Its annual report for the year 1904 shows that it was financially sound, had a large surplus and was in a prosperous condition. It was therefore a great surprise to me as well as to the public generally when internal dissension arose in this institution. It started in the Equitable Building, the home office of the Society, in the city of New York, and among its directors and highest officers.

The annual meeting of the Board of Directors was held on the 8th day of February, 1905. At that meeting the president of the Society, Mr. James W. Alexander, presented a petition, dated February 2, 1905, signed by himself and thirty-three other officers of the Society, praying that policyholders, holding policies of $5,000 or upwards, may be empowered to vote for directors as provided for in the charter, which amounted to partial mutualization. He filed with that petition an opinion signed by five eminent lawyers, to the effect that the directors had the requisite power and authority to confer upon such policyholders the right to vote at the annual election of directors. He also submitted a draft of a proposed amended charter and with it filed a written opinion of these same lawyers, dated February 7, 1905, advising that it could be lawfully adopted by a vote of a majority of the directors. At the same meeting the president submitted another petition, dated February 7, 1905, and signed by himself and thirty-eight other officers of the Society, protesting against the re-election of Mr. James H. Hyde as vice-president. The Board of Directors took these petitions and opinions under advisement, and at a subsequent meeting all the officers of the preceding year were re-elected, com-

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mittees were appointed and the Board adjourned. The proposed amended charter was not adopted, and while some effort in that direction was made nothing was accomplished toward the mutualization of the Society.

In the meantime Mr. Alexander submitted to a committee of the Board, known as the Committee of Twelve, a long statement in favor of mutualization and criticising certain actions of James H. Hyde as Vice-President. Mr. Hyde quickly replied with a long communication to the Board of Directors, defending his rights as the owner of the majority of the stock and explaining his conduct as Vice-President. Thereupon the Board of Directors divided into factions, also the officers of the Society, charges and counter-charges were made, criminations and re-criminations followed. The press took up the controversy and continued to publish startling statements as to the management of the Society, to such an extent that the policyholders of the Society became alarmed as to its solvency and their fears excited as to the assets of the Society being dissipated by the officers. The Superintendent of Insurance thereupon determined to make an examination of the Society to determine its financial condition, and for that purpose appointed Robert H. Hunter, First Deputy of the Department, and Isaac Vanderpoel, Chief Examiner of the Department. Later, on account of charges that were made by the President of the Society of misconduct on the part of some of its officers, it was determined to make an investigation of these charges and of its business management, which I personally conducted with the aid of the Honorable M. E. Driscoll as special counsel.

Section 39 of the Insurance Law of the State of New York provides as follows:

"The superintendent of insurance shall, as often as he deems it expedient, appoint one or more competent persons not officers of or connected with, or interested in any insurance corporation doing business in this state, other than as a policy holder, as examiners to examine into the affairs of any such corporation. Such examiners may examine under oath the officers and agents

of any such corporation and its books, with reference to its business. Such corporation, its officers and agents, shall produce its books and all papers in its or their possession relating to its business or affairs for the inspection and examination of such examiners whenever required; and shall facilitate such examination and aid the examiners in making the same so far as it is in their power to do so."

Many of the officers and directors of the Society were thereafter from time to time examined by me under oath and their evidence reduced to writing. I examined many of the Society's deeds, mortgages, leases, records and accounts, and in short all papers and documents which seemed to me necessary or pertinent to the inquiry, and in addition copies of all reports, proceedings, letters and papers of every kind which were furnished to the Frick Committee from time to time, were submitted to me for examination.

After reading such papers and documents and the evidence taken before me, and after due consideration, I respectfully submit the following report:

The Equitable Life Assurance Society of the United States was incorporated in the year 1859 pursuant to the provisions of an act entitled "An act to provide for the incorporation of life and health insurance companies, and in relation to agencies of such companies," passed June 24, 1853, and the amendments thereto. The provisions of its certificate of incorporation commonly known as its charter, which are pertinent to this inquiry and may be interesting to its policyholders, are:

"Article 3. The capital of said company shall be one hundred thousand dollars in cash, divided into one thousand shares of one hundred dollars each; which shall be personal property, transferable only on the books of the company, in conformity with its by-laws. The holders of the said capital stock may receive a semi-annual dividend on the stock so held by them, not to exceed three and one-half per cent. of the same, such dividends to be paid at the times, and in the manner designated by the directors of

said company. The earnings and receipts of said company, over and above the dividends, losses and expenses, shall be accumulated.

"Article 4. * * *

"The board of directors shall consist of fifty-two persons, a majority of whom shall be citizens of the State of New York, each of whom shall be a proprietor of at least five shares of the said capital stock.

"The board of directors may, previous to any annual election, and after giving notice at the previous meeting of the board, provide for diminishing the number of directors to not less than twenty-four, in which case one-fourth of the total number, as thus diminished, shall be elected annually, in the same manner as hereinafter provided, in regard to the fifty-two directors above named; and the same powers and authority shall vest in said board of directors, thus diminished, as were previously exercised by the former board of directors.

* * * * * * * * * * *

"In the election of directors, every stockholder in the company shall be entitled to one vote for every share of stock held by him, and such vote may be given in person or by proxy. At any time hereafter, the board of directors, after giving notice at the two previous stated meetings, may, by a vote of three-fourths of all the directors, provide that each life policyholder, who shall be insured in not less than five thousand dollars, shall be entitled to one vote at the annual election of directors, but such vote shall be given personally, and not by proxy.

"The board of directors shall have power to declare, by by-law, what number of directors, not less than seven, shall constitute a quorum for the transaction of business.

* * * * * * * * * * *

"Article 6. The insurance business of the company shall be conducted upon the mutual plan."

This charter has never been amended. By-laws were adopted in pursuance of the provisions of the charter and have been amended from time to time. Fifty-two directors were named in the Society's charter and the same number has been continued until the present time.

With this Charter and Board of Directors, the Society started in business. The late Henry B. Hyde, father of James H. Hyde, was its founder and leading personality in its creation and growth until the time of his death, which occurred in May, 1899. Early in the history of the Society he secured a majority of the stock, which he constantly held and transmitted by deed of trust to his son. By reason of his stock control and his commanding ability he absolutely dominated the Society in all directions. He was possessed of untiring energy and zeal. He worked early and late and inspired others with much of his own enthusiasm and enterprise. He watched over its affairs in all directions and even solicited insurance on the streets. Under his direction and management the Society grew in public confidence, and before his death it became one of the largest and most extensive insurance companies in the world. But he did not neglect his own interests or those of his immediate associates and dependents in the Society. As business increased and money began to flow into the treasury, and the real or apparent surplus began to grow, he conceived the idea of constructing or buying office buildings in the larger cities in this country and also in Europe. They were claimed to be a useful advertising medium, in impressing the policyholders and general public with the large surplus, substantial property and wise conservatism of this institution. But they incidentally served another and more selfish purpose.

### The Mercantile Safe Deposit Company.

The present home office building at 120 Broadway, New York City, was the first of these, and it occurred to Mr. Hyde that its lower floor would be a convenient and desirable place for safe deposit vaults, and that such business would be profitable. He therefore, some time prior to the 1st day of January, 1876, organized a corporation known as the Mercantile Safe Deposit Company, and on the 1st day of January, 1876, the Society leased to this Mercantile Safe Deposit Company rooms and accommodations in the Equitable Life Building. The lease was for

twenty-five years, from January 1, 1876, until January 1, 1901, with the privilege to the lessee of renewing it for twenty-five years more at the expiration of that period. The annual rent reserved was as follows: The first fifteen thousand dollars received by the tenant as net rental for said vaults, safes, places of deposit, after the payment of all expenses, went to the landlord; the second fifteen thousand dollars went to the tenant, and the balance was equally divided between the landlord and the tenant.

This lease was executed on the part of the Society by H. B. Hyde, President, and attested by Samuel Borrowe, Secretary. Thereafter and on the 9th day of January, 1883, seventeen years before the expiration of the lease above referred to, the Society made a new lease with this same tenant with no apparent reason, unless it may be to extend the term and have another officer than H. B. Hyde execute it on the part of the Society. This second lease provides for the same rent and contains substantially the same conditions as the one for which it was substituted. It was to terminate on the 1st day of January, 1901, but provided for two renewals at the option of the lessee of fifty years each, which will continue it until the year 2001, on the same terms and conditions contained in the old lease. This lease was signed on the part of the Society by James W. Alexander, Vice-President, and William Alexander, Secretary. (See Exhibit 1, Addenda.)

Thereafter and on the 14th day of April, 1888, the Society leased to this same tenant several additional rooms and extra space of large rental value with no additional rent. This instrument was executed on the part of the Society by James W. Alexander, Vice-President, and William Alexander, Secretary.

Again and on the 8th day of October, 1900, the Society entered into another lease with this same tenant, which was really the exercise of a renewal option contained in the former lease. This instrument was executed on the part of the Society by James W. Alexander, President, and George T. Wilson, Third Vice President. The Safe Deposit Company is now in possession under this last lease. All these leases provide that the lessor must make all improvements, alterations and repairs, and must light,

heat, water, janitor, watch and clean the premises and incur all expenses for care and maintenance. Yet it receives only one-half of the net rental from the vaults, boxes and places of deposit, whereas it should receive all. It may be claimed that the Safe Deposit Company ran some risk in agreeing to pay $15,000 per annum in any event. Not so. It took no chances, for the net rents received by it from these vaults, etc., during the first year were $66,474.92, and the lowest net rental since that time was $47,414.18. Besides the landlord paid all expenses, so that there was no chance to lose and every chance to win, on the side of the tenant.

From the year 1877 to 1904, both inclusive, the Mercantile Safe Deposit Company paid to the Society as rent the sum of $1,033,846.46 in annual payments ranging from $23,707.09, the lowest, to $46,535.04, the highest. The statements which we received from the Society do not show the payments made or expenses incurred for alterations in, and additions to, the premises occupied by the Mercantile Safe Deposit Company prior to the 17th day of September, 1890, but they do show an outlay by the Society on the vaults, boxes, rooms, etc., leased by this tenant from September 17, 1890, to December 31, 1904, inclusive, of $479,909.45. The rents received from the Safe Deposit Company for the same period were $483,372.94, showing a balance in favor of the landlord of only $3,463.49. But when we take into account the expenses for heat, light, water, janitors, watchmen, cleaning, elevators, etc., it is manifest that the Society suffered a great loss, whereas the gentlemen interested in the Safe Deposit Company have been reaping enormous profits. The capital stock of $300,000 has been paying 29 per cent. dividends, all at the expense of the parent company; and this will continue for ninety-six years to come.

### The Security Safe Deposit Company.

Manifestly, Henry B. Hyde was pleased with the safe deposit business and concluded to extend and improve it. The Equitable Society, therefore, bought or erected a building in Boston, Mass.,

and leased an adjoining building from one Charlotte A. Johnson for the use of the Society. He and his associates organized a corporation under the laws of Massachusetts and named it the "Equitable Safe Deposit Company," and on January 1, 1880, The Equitable Life Assurance Society leased to this company an outfit of rooms, vaults, boxes, and general accommodations for safe deposit business, partly in the building which it owned and partly in the building which it leased. This lease is better—$16,000 a year better—to the tenant than the one to the Mercantile Safe Deposit Company. By it the Safe Deposit Company rents out or sublets the vaults, safes, boxes and places of deposit and pays all expenses incurred in the same. The balance or net rental is divided as follows: The first $100 go to The Equitable Society; the next $16,000 go to the Safe Deposit Company; and if the net income exceeds $16,100 per annum, The Equitable Society gets half the surplus until one-half of such surplus together with the $100 reaches $20,000, when the rights of The Equitable Society cease, and the tenant gets all the remainder. The maximum amount which the Society can receive is $20,000 in any one year, and when it receives that amount the tenant receives $36,000 and all surplus. The lease provides for three renewals of twenty-five years each at the option of the lessee, which will continue it in force until the first day of January, 1980, and then for a renewal of one hundred years from that date, at the option of the lessee, which will continue it in force until the first day of January, 2080. It was executed on the part of the Society by Henry B. Hyde, President, and Samuel Borrowe, Secretary. (See Exhibit 2, Addenda.)

It seems that on or before the eighth day of November, 1888, another corporation known as "The Security Safe Deposit Company," was organized under the laws of the State of Massachusetts which succeeded to the rights of the Equitable Safe Deposit Company, and that the Equitable Society had constructed a new building in the City of Boston. Therefore on the eighth day of November, 1888, the Society entered into a new lease of the basement and ground floor of the new building in addition to the space

already occupied by the Equitable Safe Deposit Company. The Equitable Society simply added the ground floor and basement to the space occupied under the old lease, without receiving or apparently asking any additional rent or compensation. This lease was executed on the part of the Society by James W. Alexander, President, and William Alexander, Vice-President. (See Exhibit 3, Addenda.)

Again on the twentieth day of December, 1904, the Society by a supplemental lease added some new space and accommodations to the rooms and space occupied by the lessee without any additional rent or compensation, and this instrument was executed on the part of the Society by James W. Alexander, Vice-President, and William Alexander, Secretary.

No one would anticipate that such an arrangement would prove profitable to the Society, and the expected has happened. According to a statement furnished us by the officers of the Society, the receipts of rent from the Equitable Safe Deposit Company and the Security Safe Deposit Company, its successor, from the year 1878 to the year 1904, both inclusive, amounted to $168,285.26. This statement contains no items of expenditure prior to the ninth day of January, 1891; but the expenditures and payments made by the Society on account of alterations and additions in and for the Security Safe Deposit Company from that date to and including the sixteenth day of May, 1904, was $162,045.96, very much more than the rent received during that period. The Safe Deposit Company has received $168,285.26, the same as the Equitable Society, and the additional sum of $16,000 a year since January 1, 1880, amounting to $300,000, or a total of $468,285.26, while the Equitable Society has paid out many thousands of dollars for additions and improvements in these vaults, safes, places of deposit, more than it has received, and has also incurred all expense for light, heat, water, elevator, janitors, watchmen, cleaning, etc. With this sort of a "jug-handled" lease it is not surprising that the real estate pays the Society only 1.58 per cent. on the whole building, while the stock of the Security Safe Deposit Company pays its owners 18 per cent. on its capitalization of $200,000.

"The Missouri Safe Deposit Company."

The late Henry B. Hyde, who by this time had become a firm believer, and an expert, in safe deposit business, concluded he could improve on the Boston lease by $4,000 a year in favor of himself and his friends, and to the loss of the Society. Therefore, prior to the ninth day of November, 1888, he caused The Equitable Society to purchase an office building in the City of St. Louis, Missouri, and organized a corporation under the laws of that State, and named it "The Missouri Safe Deposit Company," and on the ninth day of November, 1888, he caused The Equitable Society to make a lease to this corporation. This lease was executed by James W. Alexander, President, and William Alexander, Secretary. (See Exhibit 4, Addenda.)

By this lease the Missouri Safe Deposit Company rents out or sub-lets the vaults, safes, boxes and places of deposit, and pays all expenses incurred in the same. The balance or net rental is disposed of as follows: The first $100 go to the Equitable Society, the next $20,000 go to the Safe Deposit Company, and if the net income exceed $20,100 per annum, one-half of such excess goes to the Equitable Society and one-half to the Safe Deposit Company, until such one-half, together with the $100 amounts to $20,000, which is the maximum rent which the Equitable Society can receive, and all excess above that goes to the Safe Deposit Company. Let it be understood that the Society receives nothing under this lease except $100 a year until after the Safe Deposit Company has received $20,000 per annum, above all expenses, while the Society keeps up all additions and improvements at its own expense. Thereafter and on December 20, 1894, The Equitable Society leased to this Safe Deposit Company two additional rooms without any additional rent. (See Exhibit 5, Addenda.)

Under this lease the Society received in rents from 1886 to 1894, for these premises, which were worth many thousands of dollars annually, the magnificent sum of $100 dollars a year, and from 1895 to 1904 it received $300 a year. There is no apparent reason why the rent was jumped from one to three hundred dollars at

once, except possibly to give these gentlemen an opportunity, in case of a superficial inquiry, to say that the rent was increased 200 per cent.

From 1886 to 1904, inclusive, the Society received the total rental of $3,900, while from the 16th day of February, 1891, to the 9th day of May, 1905, inclusive, it paid out on account of alterations, additions, repairs, etc., for these premises occupied by this Safe Deposit Company the sum of $33,131.40, and in addition thereto, during the whole term of the lease, the Society incurred the expense of heat, light, water, janitors, watchmen, elevators and cleaning. The amount expended by the Society on these leased premises prior to February 16, 1901, does not appear. The Society has realized only 1.86 per cent. on its valuation of this building (much less than the investment), while the tenant had its premises practically rent free, and received very large profits from the time of its organization until the stock of the Missouri Safe Deposit Company was sold to the Society in the year 1902.

The leases by the Equitable Society to these three safe deposit companies are very much alike. They all contain provisions with reference to arbitration in case of a disagreement between the parties as to the expenditures of the lessee. Three arbitrators are to be chosen, one by the lessee, one by the lessor and the third by the two so chosen, and the decision of such arbitrators shall be final and conclusive upon the parties. When it is clearly understood that the gentlemen who caused the Society to make these long leases at great loss to the Society are the same men who reap the profits from the leases, it is manifest that if ever an arbitration question should come up as a matter of form, the Society's interests would not be looked after. That is all that need be said.

These leases are all so one-sided, unfair and unjust to the Society that it is practically impossible to convey a clear idea of all their provisions by any extract which may be made; for it is difficult to believe that trustees of a sacred trust would make such contracts against the welfare of the Society and in their own

interests. In order that the policyholders may read for themselves, if they desire, and see the kind of leases which the Society has been making, copies of them are appended to and made a part of this report.

(See Exhibits 1 to 5, Addenda.)

But who were the gentlemen who realized these profits? The Missouri Safe Deposit Company was capitalized at $200,000, consisting of 2,000 shares of $100 each, and the following is a list of the original subscribers to that stock and the amounts of their subscriptions:

| | Shares. |
|---|---|
| Henry G. Marquand | 200 |
| Henry G. Haarstick | 5 |
| D. K. Ferguson | 5 |
| George W. Allen | 5 |
| George D. Capen | 5 |
| William Nichols | 5 |
| James Jauncey Hoyt | 5 |
| William Alexander | 25 |
| Louis Fitzgerald | 1,745 |
| | 2,000 |

Two hundred shares appear in the name of Henry G. Marquand.

The six following seem to be qualified directors holding five shares each. William Alexander, the Secretary of the Equitable Society, took 25 shares, and Louis Fitzgerald took the great bulk of the stock, 1,745 shares. This gentleman was the intimate friend of the late Henry B. Hyde and for many years was Chairman of the Executive and Finance Committees of the Equitable Society. We have sent for Mr. Fitzgerald to tell us who the real owner of this stock was, but he has not appeared. It may be assumed that most of it was owned by Henry B. Hyde himself, for while he favored his intimate friends on the inside at the expense of the Society he kept the lion's share himself.

President James W. Alexander and other officers who appeared before us explained that in the year 1902 the Society was negotiating the sale of this St. Louis building, but that the proposed purchaser refused to take it on account of this long and one-sided lease. It was on that account deemed wise on the part of the Society to purchase all the stock of the company so that it might own both the building and the stock and terminate the lease at will. It was therefore agreed upon to pay the stockholders $250 per share which was estimated on a basis of four per cent. The stock was paying dividends of ten per cent. per annum. All of the stock was bought in by the Society at that figure. James H. Hyde was the owner of a large majority, for on June 2, 1902, he sold to the Society 1,410 shares at $250 a share and received in cash $352,500.

James W. Alexander says he signed these leases under the direction of Henry B. Hyde. I believe that to be the fact, and it is the most charitable construction which can be placed upon his acts.

The following statement submitted to us by the officers of the Society is here inserted. It tells the story how the officers of the Society profited through these safe deposit companies.

*Rents Received from Mercantile Safe Deposit Co. of New York, Security Safe Deposit Co. of Boston, Mass., Missouri Safe Deposit Co. of St. Louis, Mo.*

| | Mercantile Safe Deposit Co. | Security Safe Deposit Co. | Missouri Safe Deposit Co. |
|---|---|---|---|
| 1876 | ..... | ..... | ..... |
| 1877 | $33,237 46 | ..... | ..... |
| 1878 | 23,707 09 | $1,787 63 | ..... |
| 1879 | 32,065 72 | ..... | ..... |
| 1880 | 34,079 69 | 100 00 | ..... |
| 1881 | 42,208 33 | 100 00 | ..... |
| 1882 | 43,321 71 | 145 38 | ..... |
| 1883 | 46,535 04 | 836 38 | ..... |
| 1884 | 45,206 23 | 1,693 20 | ..... |
| 1885 | 45,706 81 | 2,415 87 | ..... |
| 1886 | 45,851 48 | 4,046 84 | $100 00 |
| 1887 | 43,066 51 | 5,296 69 | 100 00 |
| 1888 | 41,042 22 | 6,526 16 | 100 00 |
| 1889 | 42,111 03 | 7,698 56 | 100 00 |
| 1890 | 41,910 45 | 8,744 56 | 100 00 |
| 1891 | 44,493 11 | 5,619 14 | 100 00 |
| 1892 | 32,695 71 | 5,941 30 | 100 00 |
| 1893 | 34,989 30 | 7,137 28 | 100 00 |

| | Mercantile Safe Deposit Co. | Security Safe Deposit Co. | Missouri Safe Deposit Co. |
|---|---|---|---|
| 1894 | $34,447 65 | $6,095 69 | $100 00 |
| 1895 | 29,815 08 | 5,858 96 | 300 00 |
| 1896 | 32,021 52 | 7,257 31 | 300 00 |
| 1897 | 32,645 39 | 8,805 89 | 300 00 |
| 1898 | 28,189 06 | 9,390 75 | 300 00 |
| 1899 | 38,197 06 | 10,469 57 | 300 00 |
| 1900 | 36,439 29 | 11,029 45 | 300 00 |
| 1901 | 37,063 12 | 11,530 56 | 300 00 |
| 1902 | 38,954 01 | 12,993 00 | 300 00 |
| 1903 | 29,966 81 | 12,418 11 | 300 00 |
| 1904 | 23,879 57 | 14,346 98 | 300 00 |
| | $1,033,846 46 | $168,285 26 | $3,900 00 |

*Payments Made on Account of Alterations and Additions, Mercantile Safe Deposit Co. of New York.*

New North Vault:

| | |
|---|---|
| J. B. & J. M. Cornell, 18th and final payment, Feb. 15, 1905 | $500 00 |
| J. B. & J. M. Cornell, 17th payment, April 27, 1904 | 5,000 00 |
| J. B. & J. M. Cornell, 16th payment, March 7, 1904 | 7,500 00 |
| J. B. & J. M. Cornell, 15th payment, Jan. 21, 1904 | 10,000 00 |
| J. B. & J. M. Cornell, 14th payment, Dec. 16, 1903 | 15,868 63 |
| J. B. & J. M. Cornell, 13th payment, Sept. 18, 1903 | 5,968 80 |
| J. B. & J. M. Cornell, 12th payment, July 27, 1903 | 5,874 52 |
| J. B. & J. M. Cornell, 11th payment, July 1, 1903 | 5,367 10 |
| J. B. & J. M. Cornell, vault work, 10th payment, May 8, 1903 | 7,220 60 |
| J. B. & J. M. Cornell, vault work, 9th payment, April 8, 1903 | 7,309 05 |
| J. B. & J. M. Cornell, vault work, 8th payment, March 27, 1903 | 10,000 00 |
| J. B. & J. M. Cornell, vault work, 7th payment, Feb. 20, 1903 | 8,710 65 |
| J. B. & J. M. Cornell, vault work, 6th payment, Jan. 14, 1903 | 8,043 90 |
| J. B. & J. M. Cornell, vault work, 5th payment, Dec. 10, 1902 | 7,311 00 |
| J. B. & J. M. Cornell, vault work, 4th payment, Nov. 12, 1902 | 14,013 69 |
| J. B. & J. M. Cornell, vault work, 3d payment, Oct. 15, 1902 | 22,020 28 |
| J. B. & J. M. Cornell, vault work, 2d payment, Sept. 4, 1902 | 45,031 49 |
| J. B. & J. M. Cornell, vault work, 1st payment, Aug. 20, 1902 | 13,060 29 |
| | $198,800 00 |
| J. M. Mossman, 4th and final payment, Oct. 26, 1904 | $3,232 78 |
| J. M. Mossman, 3d payment, Sept. 15, 1904 | 52,500 00 |
| J. M. Mossman, safe deposit boxes, tin boxes and locks, 2d payment, May 13, 1904 | 9,678 45 |
| J. M. Mossman, safe deposit boxes, tin boxes and locks, 1st payment, March 25, 1904 | 40,000 00 |
| | $105,411 23 |
| J. B. & J. M. Cornell, iron shutters, March 7, 1904 | $490 00 |
| J. B. & J. M. Cornell, steel plates, etc., Feb. 15, 1905 | 183 50 |
| J. B. & J. M. Cornell, in addition to contract, iron lintels, etc., Feb. 15, 1905 | 88 40 |
| J. B. & J. M. Cornell, in addition to contract, bronze ceiling, Feb. 15, 1905 | 3,601 24 |
| J. B. & J. M. Cornell, in addition to contract, dragon sign, Feb. 15, 1905 | 450 00 |
| | $4,813 14 |

New Vaults Nos. 1, 2, 3:

| | |
|---|---|
| J. B. & J. M. Cornell, 5th and final payment, Dec. 4, 1903 | $2,017 24 |
| J. B. & J. M. Cornell, 4th payment, July 27, 1903 | 4,703 10 |
| J. B. & J. M. Cornell, vault work, 3d payment, June 10, 1903 | 5,048 40 |
| J. B. & J. M. Cornell, vault work, 2d payment, May 8, 1903 | 3,873 90 |
| J. B. & J. M. Cornell, vault work, 1st payment, April 8, 1903 | 12,922 36 |
| | $28,565 00 |

*Payments Made on Account of Alterations and Additions, Mercantile Safe Deposit Company of New York.*

| | | | |
|---|---|---|---|
| J. B. & J. M. Cornell, iron work | $2,284 81, | paid Oct. 8, | 1890 |
| J. B. & J. M. Cornell, vault work | 25,000 00, | paid Nov. 17, | 1890 |
| J. B. & J. M. Cornell, vault work | 25,000 00, | paid July 8, | 1891 |
| J. B. & J. M. Cornell, safe deposit boxes | 20,000 00, | paid Sep. 1, | 1891 |
| J. B. & J. M. Cornell, safe deposit boxes | 13,132 38, | paid Feb. 12, | 1892 |
| J. B. & J. M. Cornell, guards | 945 00, | paid Jan. 23, | 1895 |
| J. B. & J. M. Cornell, safe deposit boxes | 1,148 00, | paid Sep. 25, | 1897 |
| J. B. & J. M. Cornell, iron grilles | 349 00, | paid May 31, | 1899 |
| J. B. & J. M. Cornell, 2 safes | 640 00, | paid June 20, | 1900 |
| J. M. Mossman, time lock, vault V | 275 00, | paid Feb. 26, | 1890 |
| J. M. Mossman, combination locks | 300 00, | paid July 2, | 1890 |
| J. M. Mossman, door guards | 135 00, | paid Sep. 17, | 1890 |
| J. M. Mossman, 5 safes | 1,960 00, | paid June 27, | 1891 |
| J. M. Mossman, safe deposit locks | 7,800 00, | paid Sep. 1, | 1891 |
| J. M. Mossman, refinishing | 2,330 22, | paid Dec. 22, | 1891 |
| J. M. Mossman, door and vestibule | 2,005 20, | paid Jan. 8, | 1892 |
| J. M. Mossman, safe deposit boxes | 2,403 90, | paid Feb. 12, | 1892 |
| J. M. Mossman, license for 2 sills | 200 00, | paid Aug. 17 | 1892 |
| J. M. Mossman, door and vestibule | 525 00, | paid May 25, | 1892 |
| J. M. Mossman, iron closets | 225 00, | paid May 17, | 1893 |
| J. M. Mossman, closets | 1,095 27, | paid Feb. 28, | 1894 |
| J. M. Mossman, safe deposit boxes | 3,813 25, | paid Aug. 29, | 1895 |
| J. M. Mossman, number plates | 500 00, | paid Aug. 29, | 1895 |
| J. M. Mossman, safe deposit locks | 2,220 80, | paid Aug. 29, | 1895 |
| J. M. Mossman, safe deposit boxes | 1,891 00, | paid Nov. 11, | 1896 |
| J. M. Mossman, safe deposit locks | 208 00, | paid Nov. 11, | 1896 |
| J. M. Mossman, safe deposit locks | 1,263 30, | paid Sep. 1, | 1897 |
| J. M. Mossman, safe deposit boxes | 4,196 35, | paid Sep. 13, | 1899 |
| J. M. Mossman, safe deposit boxes | 3,054 19, | paid Aug. 15, | 1900 |
| J. M. Mossman, safe deposit boxes | 2,468 79, | paid Aug. 15, | 1900 |
| J. M. Mossman, safe deposit boxes | 585 40, | paid Aug. 15, | 1900 |
| J. M. Mossman, time locks | 650 65, | paid April 25, | 1900 |
| J. M. Mossman, safe deposit locks | 360 00, | paid April 23, | 1902 |
| J. M. Mossman, safe deposit locks | 282 65, | paid April 23, | 1902 |
| J. M. Mossman, safe deposit boxes | 2,937 95, | paid April 23, | 1902 |
| J. M. Mossman, safe deposit locks | 104 40, | paid Mar. 18, | 1902 |
| J. M. Mossman, safe deposit locks | 423 40, | paid May 20, | 1903 |
| J. M. Mossman, safe deposit locks | 2,578 25, | paid Oct. 11, | 1899 |
| J. M. Mossman, safe deposit locks | 358 50, | paid Aug. 17, | 1904 |
| R. Hildebrand, cabinet work | 398 80, | paid Dec. 19, | 1890 |
| R. Hildebrand, cabinet work | 480 50, | paid Dec. 19, | 1890 |
| R. Hildebrand, cabinet work | 341 65, | paid Jan. 13, | 1891 |
| R. Hildebrand, cabinet work | 652 42, | paid Mar. 9, | 1891 |
| R. Hildebrand, cabinet work | 2,974 17, | paid Oct. 24, | 1891 |
| Chas. Wolff, pneumatic tubes | 500 00, | paid Nov. 9, | 1891 |
| F. Graves, ventilating work | 2,230 02, | paid Aug. 17, | 1892 |
| R. J. Clash, lining vault | 670 00, | paid May 12, | 1893 |
| F. Beck & Co., decorating | 3,320 00, | paid May 24, | 1893 |
| J. Williams, bronze sign | 325 00, | paid Nov. 29, | 1899 |
| | $147,543 22 | | |

*Payments Made on Account of Alterations and Additions, Security Safe Deposit Company of Boston, Mass.*

| | | | |
|---|---|---|---|
| R. Hildebrand, cabinet work | $2,500 00, | paid April | 6, 1891 |
| R. Hildebrand, cabinet work | 2,000 00, | paid May | 12, 1891 |
| R. Hildebrand, cabinet work | 1,733 01, | paid July | 8, 1891 |
| J. M. Mossman, safe deposit boxes | 1,012 20, | paid Jan. | 9, 1891 |
| J. M. Mossman, safe deposit boxes | 3,618 00, | paid Mar. | 21, 1900 |
| Smith & Lovett, iron work | 1,761 96, | paid Jan. | 29, 1891 |
| Smith & Lovett, iron work | 2,113 17, | paid April | 10, 1891 |
| Smith & Lovett, gratings and steel door | 350 00, | paid Sep. | 21, 1891 |
| Batterson & Eisle, marble work | 2,500 00, | paid April | 13, 1891 |
| Batterson & Eisle, marble work | 882 04, | paid July | 9, 1891 |
| Batterson & Eisle, marble work | 3,033 00, | paid Oct. | 31, 1894 |
| G. H. Pride, burglar alarm | 1,250 00, | paid July | 21, 1891 |
| J. B. & J. M. Cornell, safe deposit boxes | 4,800 00, | paid Feb. | 12, 1892 |
| J. B. & J. M. Cornell, new vault | 50,000 00, | paid July | 27, 1894 |
| J. B. & J. M. Cornell, new vault | 36,134 28, | paid Oct. | 25, 1894 |
| J. P. Cushing Co., burglar alarms | 1,219 45, | paid July | 14, 1892 |
| J. P. Cushing Co., electrical work | 981 89, | paid Jan. | 7, 1893 |
| Damon Safe and Iron Co., safe deposit boxes | 4,541 00, | paid June | 2, 1893 |
| Damon Safe and Iron Co., safe deposit boxes | 4,000 00, | paid Nov. | 21, 1894 |
| Damon Safe and Iron Co., safe deposit boxes | 3,500 00, | paid Jan. | 9, 1895 |
| Cottier & Co., decorating | 2,500 00, | paid Oct. | 26, 1894 |
| Cottier & Co., decorating | 2,500 00, | paid Nov. | 23, 1894 |
| Cottier & Co., decorating | 2,605 00, | paid Dec. | 20, 1894 |
| J. P. Perry, electrical supplies | 1,046 26, | paid Jan. | 22, 1895 |
| Poulsen & Eger, tablet | 365 00, | paid Jan. | 23, 1895 |
| Andrews, Jaques & R., commission | 2,061 53, | paid Jan. | 30, 1895 |
| L. D. Willcutt & Son | 15,999 62, | paid Jan. | 30, 1895 |
| J. B. Cashman, plans and details | 1,000 00, | paid Jan. | 8, 1895 |
| Mosler Safe Co., vault doors and boxes | 3,025 55, | paid Oct. | 15, 1902 |
| Mosler Safe Co., vault doors | 1,815 00, | paid Aug. | 19, 1903 |
| Mosler Safe Co., safe deposit boxes | 460 00, | paid May | 16, 1904 |
| Mosler Safe Co., vault front | 738 00, | paid May | 16, 1904 |
| | $162,045 96 | | |

E. & O. E.

*Missouri Safe Deposit Company of St. Louis, Mo.*

| | | | |
|---|---|---|---|
| J. M. Mossman, safe deposit locks | $4,725 00, | paid Feb. | 16, 1891 |
| J. M. Mossman, locks and keys | 627 55, | paid Aug. | 12, 1897 |
| J. M. Mossman, safe deposit boxes | 1,100 00, | paid Dec. | 1, 1898 |
| J. M. Mossman, safe deposit boxes | 1,687 45, | paid July | 18, 1900 |
| Thayer & Robinson, commission | 561 75, | paid May | 21, 1891 |
| Herring & Co., safe deposit boxes | 14,000 00, | paid May | 7, 1891 |
| St. Louis Stamping Co., safe boxes | 2,080 00, | paid July | 8, 1891 |
| St. Louis Art Metal Co., metal cabinets | 1,317 67, | paid July | 27, 1899 |
| Library Bureau, oak cabinet | 83 00, | paid July | 27, 1899 |
| J. M. Mossman, safe deposit boxes | 2,493 00, | paid Sep. | 23, 1903 |
| Alterations | 4,655 98, | paid May | 9, 1905 |
| | $33,331 40 | | |

E. & O. E., May 31, 1905.

## Commercial Trust Company of Philadelphia.

The Commercial Trust Company of Philadelphia is advertised in a book published by The Equitable Society annually, as one of its affiliated companies. Many of its directors are Equitable people. Many years ago the custom or practice began of making advances by the Society to its agents. In about the year 1893 the total of these advances was large and appeared as an asset in the annual report of the Society, but was not admitted as an asset by the Insurance Department of the State of New York. It therefore occurred to Henry B. Hyde to get a financial institution which would answer a double purpose, and this Commercial Trust Company of Philadelphia was either organized or purchased. Since that time, annually, large sums of agents' advances have been assigned to this Trust Company. Credit has been given The Equitable Society in the Trust Company's books, as so much cash deposited, and has been admitted as an asset by the Insurance Department. The other purpose which it serves is to make a profit for the Trust Company, in which many Equitable officers and directors are interested as stockholders, and at the loss of The Equitable Society. On the twelfth day of December, 1904, The Equitable Society assigned to the Commercial Trust Company agents' balances to the amount of $4,273,249.45 by an assignment and agreement. This instrument, on its face, is an absolute assignment of all claims which go to make up the total, and contains the following covenants: "The said Society does hereby further, for the consideration aforesaid, warrant and guarantee to the said Commercial Trust Company that the several amounts advanced to the several individuals and copartnerships, as stated in said Schedule A, are justly due and owing to said Society from the said debtors named in Schedule A, together with interest thereon at the rate of five per cent per annum, and that said Society has a legal and valid claim against each and every of said debtors for the several amounts specified in said schedule, with interest thereon; that said advances arise upon contract or contracts between the said Society and the said debtors and consist of advances made by said Society upon the contract rights of said several debtors to commissions on the renewal premiums

on policies in said Society, and that such liens are duly evidenced by documents now in the possession of said Society. And the said Society further warrants and guarantees that the present value of said rights under said annual renewal commissions of said debtors, set forth in said schedule, computed at five times (or a lesser number of times, as indicated in the margin of said schedule), is equal to at least the amount of such advances as set forth in Schedule A."

On the same day, December 12, 1904, by an assignment and agreement of exactly the same form, The Equitable Society transferred to the the Equitable Trust Company of New York another schedule of agents' balances amounting to $1,539,935.42. Mr. Clarence L. Gillespie, Vice President of this Trust Company, was called as a witness and stated, in substance, that the assignment and agreement together with the schedule was the only paper delivered by the Society to the Trust Company. That none of the notes or other evidences of debt held by the Society against the agents were delivered with the assignment. That the Trust Company simply took this instrument and entered it on its books as a loan to The Equitable Society. The Equitable Society retains all the evidences of claims against the individual agents to whom advances are made, collects them all and pays them over to the trust companies. This practice has been in vogue with the Commercial Trust Company since about the year 1894, and the Trust companies never suffered any loss. In fact these trust companies run no risk, and they have no trouble or expense in connection with the same. They simply enter the total amounts in their books as loans to The Equitable Society, on which they get five per cent.; and the Commercial Trust Company pays The Equitable Society 3 per cent. on its deposits, and the Equitable Trust Company only pays 2 per cent. on its deposits. If The Equitable Society had not made these assignments its total assets would appear to be $5,813,184.87 less. If it had retained these accounts it would have saved in the transaction with the Commercial Trust Company, 2 per cent. on $4,273,249.45, or $85,464.98, and it would have saved in the transaction with the Equitable Trust Company, 3 per cent. on $1,539,935.42, or

$46,198.06. No reason appears why it should not have done so, for its bank cash deposits for a long time back have averaged between twenty and thirty millions of dollars. It is only fair to say, however, that The Equitable Society is a stockholder in the Commercial Trust Company in the sum of about $347,500, par value, and gets its share of the profits in the form of dividends. It is also a stockholder in the Equitable Trust Company in the sum of about $1,300,000, par value, and gets its share of the profits realized by that company from this transaction in the form of dividends; and it is only fair to say also, that James H. Hyde is an officer of the Commercial Trust Company at $2,500 a year and a stockholder in the sum of $25,000 par value, and he is also Vice President of the Equitable Trust Company at $12,000 a year and a stockholder in the sum of $300,000, par value. He therefore has a strong interest in seeing to it that these trust companies run no risk and reap good profits.

### The Equitable Trust Company of New York.

An inquiry was made in relation to the organization of The Equitable Trust Company of New York, one of the affiliated companies of the Equitable Society. The name of the original corporation was "American Deposit and Loan Company," which was organized for the purpose of loaning money to policyholders on Equitable policies. On the 1st day of June, 1896, the stock list of this company according to the statement verified by Mr. Krech, President of the Equitable Trust Company, was as follows:

| | Shares. |
|---|---|
| W. H. Coler, Jr. | 10 |
| W. T. Hatch | 10 |
| Marcellus Hartley | 4,940 |
| George W. Hebard | 10 |
| G. W. Jenkins | 10 |
| John E. Searles | 10 |
| George Westinghouse | 10 |
| | 5,000 |

Marcellus Hartley was a personal friend of Henry B. Hyde, a director of the Society and a member of the Executive Committee. The 4,940 shares were supposedly put in his name for the purpose of distribution, and when that was accomplished the stockholders of record were as follows:

| | Shares. |
|---|---|
| James W. Alexander | 100 |
| William Alexander | 50 |
| H. M. Alexander | 10 |
| C. B. Alexander | 100 |
| Alexander & Colby | 180 |
| Bainbridge Colby | 10 |
| W. N. Coler, Jr | 25 |
| T. DeWitt Cuyler | 200 |
| C. M. Depew | 200 |
| Equitable Life Assurance Society | 2,335 |
| Louis Fitzgerald | 100 |
| Marcellus Hartley | 250 |
| G. D. Hartley | 100 |
| J. H. Hyde | 300 |
| Annie F. Hyde | 50 |
| G. W. Jenkins | 100 |
| T. D. Jordan | 100 |
| S. S. McCurdy | 5 |
| W. H. McIntyre | 100 |
| Mercantile Trust Company | 200 |
| M. B. Metcalf | 50 |
| M. Murray | 10 |
| William R. Porter | 25 |
| S. D. Ripley | 100 |
| V. P. Snyder | 50 |
| George H. Squire | 50 |
| G. E. Tarbell | 100 |
| George T. Wilson | 100 |
| Total | 5,000 |

The list of stockholders as of January 7, 1902, was the same as the foregoing. In order to get a clear understanding of this transaction it should be observed that nearly all of this stock appears in the name of the Equitable Society and its directors, especially the members of the Executive Committee. It was an affiliated or subsidiary company of the Equitable Society, and was made one of its depositories. On January 7, 1902, the increase of its capital stock from $500,000 to $1,000,000 was authorized. The book value of the stock at the time this increase was authorized was $150 per share. The terms of the increase were that it was to be paid for at the rate of $150 per share and each stockholder of record was entitled to subscribe for one additional share for each share of his holdings.

It should be noted that the Equitable Society, which was entitled to take 2,335 shares on this increase, elected to take only 665 shares, making its holdings 3,000 shares. The 1,670 shares allotted to the Equitable Society which it did not take were distributed as follows:

| | Shares. |
|---|---|
| James H. Hyde | 565 |
| James H. Hyde and W. H. McIntyre, Trustees | 702 |
| Annie F. Hyde | 75 |

And the balance, 328 shares, to other members of the Executive Committee of the Society.

The privilege of subscribing to this increase proved to be very valuable, which will appear when the plans which had been mapped out by Mr. Hyde and his friends for the further increase of capital were carried out. Mr. Hyde in his evidence explains, when asked why The Equitable Society did not exercise this privilege, that he as Chairman of the Executive and Finance Committees, and the other members of these committees thought it unwise for the Society to take in at $150 a share its full allotment of stock. Nevertheless, on his own personal account and for his mother and for himself, and W. H. McIntyre as Trustees, he was willing to assume the risk.

The next step taken was an act of the Legislature passed April 2, 1902, changing the name of the corporation to the

Equitable Trust Company of New York. On January 28, 1903, its capital stock was again increased from one to three millions, the additional increase to be paid for at $500 per share. The list of stockholders and their holdings on January 27, 1903, the day before the increase, and also the list as of January 28, 1903, immediately after the increase, is now set forth:

*List of Stockholders of Date January* 27, 1903.

| | Shares. |
|---|---|
| Alexander, James W | 350 |
| Alexander, William | 75 |
| Alexander & Colby | 280 |
| Alexander, H. M | 10 |
| Alexander, C. B | 150 |
| Adams, 2d, C. F | 10 |
| Amendt, A. L | 25 |
| Baldwin, Jr., W. H | 10 |
| Bremner, W. B | 10 |
| Cornell, William T | 100 |
| Coler, W. N | 75 |
| Coggeshall, E. W | 100 |
| Colby, Bainbridge | 10 |
| Crocker, W. H | 10 |
| Cuyler, T. DeWitt | 150 |
| Deming, H. C | 100 |
| Depew, Chauncey M | 300 |
| Dowling, Robt. E | 100 |
| Dryden, John F | 100 |
| Equitable Life Assurance Society | 2,605 |
| Euvrard, Camille | 5 |
| Flake, Albert | 100 |
| Fitzgerald, Louis | 350 |
| Frick, Henry C | 105 |
| Gillespie, L. L | 25 |
| Hartley, Estate of M | 375 |
| Hartley, G. D | 150 |
| Harriman, E. H | 200 |
| Hall, J. M | 10 |

*List of Stockholders of Date January 27, 1903—(Continued).*

| | Shares. |
|---|---|
| Hebard, George W | 50 |
| Hubbard, T. H | 100 |
| Hyde, James H | 1,117 |
| Hyde, Annie F | 175 |
| Inman, S. M | 10 |
| Jenkins, Geo. W | 150 |
| Jessup, Morris K | 150 |
| Jordan, Thomas D | 150 |
| Johnson, Bradish | 100 |
| Kahn, Otto H | 10 |
| Kuhn, Loeb & Co | 200 |
| Mackay, Clarence H | 10 |
| Mercantile Trust Co | 300 |
| Metcalf, M. B | 75 |
| Middlebrook, F. J | 10 |
| Moffat, D. H | 10 |
| Murray, M | 20 |
| McCarter, U. H | 50 |
| McIntyre, W. H | 200 |
| McCurdy, S. S | 8 |
| Ochs, A. S | 50 |
| Pendreigh, F. M | 10 |
| Ripley, Sidney Dillon | 235 |
| Smith, J. Henry | 100 |
| Stone, Melville E | 40 |
| Squire, George H | 200 |
| Snyder, V. P | 100 |
| Tarbell, Gage E | 200 |
| Van Horne, Wm. C | 10 |
| Williamson, C. F | 20 |
| Winthrop, H. R | 100 |
| Wilson, Geo. F | 150 |
| | 10,000 |

*List of Stockholders as of January* 28, 1903.

| | Shares. |
|---|---|
| Alexander, James W | 638 |
| Alexander, William | 93 |
| Alexander & Colby | 280 |
| Alexander, H. M | 235 |
| Alexander, C. B | 188 |
| Adams, 2d, C. F | 110 |
| Amendt, A. L | 32 |
| Armour, J. C | 100 |
| Baldwin, Jr., W. H | 110 |
| Blanchard, T. C. E | 20 |
| Blanchard, Fred C | 20 |
| Bremner, W. B | 20 |
| Castles, J. W | 50 |
| Cornell, Wm. T | 125 |
| Coler, Jr., W. N | 225 |
| Coggeshall, E. W | 125 |
| Colby, Bainbridge | 85 |
| Crocker, W. H | 110 |
| Coudert, Jr., F. R | 100 |
| Cuyler, T. DeWitt | 187 |
| Deming, H. C | 125 |
| Depew, Chauncey M | 375 |
| Dowling, Robert E | 200 |
| Dryden, John F | 250 |
| Dryden, F. F | 50 |
| Equitable Life Assurance Society, The | 13,168 |
| Euvrard, Camille | 10 |
| Flake, Albert | 200 |
| Fitzgerald, Louis | 350 |
| Frick, Henry C | 505 |
| Forgan, J. B | 100 |
| Fulle, F. W | 10 |
| Gregory, Eliott | 50 |
| Gillespie, L. L | 107 |

*List of Stockholders as of January 28, 1903—(Continued).*

| | Shares. |
|---|---|
| Gould, George J. | 500 |
| Hartley, Estate of M. | 469 |
| Hartley, G. D. | 188 |
| Harriman, E. H. | 500 |
| Hall, J. M. | 10 |
| Hebard, George W. | 63 |
| Hubbard, T. H. | 100 |
| Hunter, R. R. | 5 |
| Hyde, James H. | 3,000 |
| Hyde, Annie F. | 400 |
| Inman, S. M. | 20 |
| Jenkins, George W. | 188 |
| Jessup, Morris K. | 188 |
| Jordan, Thomas D. | 188 |
| Johnson, Bradish | 200 |
| Johnson, Wilbur S. | 20 |
| Kahn, O. H. | 10 |
| Kanouse, E. D. | 20 |
| Krech, A. W. | 50 |
| Kuhn, Loeb & Co. | 1,150 |
| Kuser, A. R. | 65 |
| Mackay, Clarence H. | 110 |
| Mercantile Trust Company | 375 |
| Metcalf, M. B. | 225 |
| Merrick, Wm. A. | 500 |
| Moffat, D. H. | 110 |
| Middlebrook, F. J. | 25 |
| Murray, M. | 35 |
| McCarter, U. H. | 63 |
| McIntyre, W. H. | 250 |
| McCurdy, S. S. | 10 |
| McClusky, George W. | 50 |
| Ochs, A. S. | 63 |
| Pendreigh, F. M. | 13 |

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

*List of Stockholders as of January* 28, 1903—(*Continued*).

| | Shares. |
|---|---|
| Porter, Jr., H. H. | 100 |
| Ripley, Sidney Dillon | 294 |
| Rhoades, Jr., L. | 5 |
| Rouzer, Geo. W. | 10 |
| Scheerer, William | 25 |
| Smith, J. Henry | 125 |
| Stone, Melville E. | 40 |
| Squire, George H. | 600 |
| Snyder, V. P. | 125 |
| Tarbell, G. E. | 450 |
| Tailer, T. S. | 50 |
| Taylor, Jerome | 20 |
| Van Horne, Wm. C. | 10 |
| Valentine, P. A. | 100 |
| Walker, W. M. | 5 |
| Ward, L. D. | 50 |
| Ward, Edgar B. | 50 |
| Williamson, C. F. | 25 |
| Winthrop, H. R. | 200 |
| Wilson, Geo. T. | 200 |
| | 30,000 |

It will be noted that the Equitable Society is now the owner of 13,168 shares, an increase of 10,563 shares over its holdings on the 27th day of January, 1903, paid for at $500 per share, an investment of $5,281,500. Mr. Krech, in his testimony, states that the book value of the Trust Company stock after this increase was paid in was $383 1-3 per share. In other words the stock that was paid for at $500 per share has now a book value of $383 1-3 per share, a loss to the Society of $116 2-3 per share, and the stockholders who took the stock at $150 had the book value of their stock increased to $383 1-3, a profit of $233 1-3 per share, a very handsome showing to the gentlemen who took the stock alloted to the Equitable Society, and the shareholders of January 27, 1903,

before the increase, and a very large loss to the Society by reason of the determination of the executive committee that it was unwise for the Equitable to take the stock allotted to it. Since this reorganization the Equitable Society has kept on deposit with the trust company an average of about $10,000,000 at the low rate of 2 per cent. per annum.

The simple statement of the above transaction directed by the officers of the Equitable Society and approved by their executive committee, demonstrates that they were not solicitous for the Society's welfare but active in promoting their own private interests.

NATIONAL BANK OF COMMERCE.

An inquiry was instituted into the consolidation of the Western National Bank of the City of New York with the National Bank of the United States of New York, under the name of the Western National Bank of the United States in New York. Mr. Snyder, president of the National Bank of Commerce, stated in his evidence that he was at that time, 1902, president of the Western National Bank of the City of New York; that it was a flourishing banking corporation; that The Equitable Society held from 11,000 to 13,000 shares of its stock—he could not state definitely, but probably about 12,000 shares; that its book value was 245, and its market value about 600, that is, 600 bid, 625 asked; that the stock was sought for; that he could have sold the controlling interest at $700 a share; that The Equitable Society owned the controlling interest. Mr. Bainbridge Colby, who is one of the attorneys for The Equitable Society, in his evidence furnished a copy of the circular issued to the stockholders of the Western National Bank of the City of New York December 12, 1902, which is as follows:

*To the Stockholders of the Western National Bank of the City of New York:*

The board of directors of this bank, by unanimous vote, has adopted resolutions, copies of which are enclosed herewith, and has authorized the calling of a special meeting of the stockholders to consider and vote thereon.

Under these resolutions it is proposed, with the approval of the shareholders, to effect a consolidation of this bank with The National Bank of the United States in New York under the name of The Western National Bank of the United States in New York, and with a capital of $10,000,000, and a surplus of $2,500,000.

To accomplish this result it is proposed to place this bank in voluntary liquidation, and to sell its assets to The National Bank of the United States in New York, which will increase its capital stock to $10,000,000, part of said increase to be used in the purchase of the assets of this bank.

The result will be a bank of the first magnitude, with a capital and surplus commensurate with the increased scale of present financial and mercantile transactions and supported by powerful interests capable of sustaining and extending its growth, viz., The Equitable Life Assurance Society, The Mutual Life Insurance Company, The Morton Trust Company, and various allied interests.

Accordingly, the principal stockholders of this bank have named Messrs. James W. Alexander, James H. Hyde and Valentine P. Snyder, as a committee to effectuate this plan, and said committee has requested your Board to inform you that said committee is authorized, in the event that the capital stock of The National Bank of the United States in New York, is increased, as above, to make the following alternative offers to the stockholders of this bank, namely:

(1) To deliver to each stockholder for every $100 par value of stock, $70 in cash and $140 at par in the stock of the Consolidated Bank; or

(2) To pay to every stockholder who does not elect to join in the consolidation, for each $100 in stock of this bank, $600 in cash.

This offer is conditioned, of course, upon its acceptance on or prior to January 6, 1903.

A majority of the shareholders of this bank, as well as a majority of the shareholders of the National Bank of the United States, have signified their approval of the above plan, and its

acceptance is recommended as highly advantageous to every shareholder by the respective boards of directors.

You are, therefore, requested to deposit your stock, endorsed in blank, with The Equitable Trust Company of New York, No. 25 Nassau street, in the City of New York, on or before January 6, 1903, in exchange for a negotiable receipt entitling you, upon the consummation of the above plan, to either cash, or cash and stock, as you may have elected.

You are also requested to sign and return in the enclosed envelope the accompanying form of proxy, signed in the presence of a witness, to vote your stock in favor of the foregoing plan.

New York City, December 12, 1902.

JAMES W. ALEXANDER,
H. M. ALEXANDER,
CHARLES T. BARNEY,
C. LEDYARD BLAIR,
J. M. CEBALLOS,
WILLIAM N. COLER, JR.,
CHAUNCEY M. DEPEW,
JOHN F. DRYDEN,
MARTIN ERDMANN,
LOUIS FITZGERALD,
VALENTINE P. SNYDER,
GEORGE J. GOULD,
THOMAS H. HUBBARD,
JAMES H. HYDE,
BRAYTON IVES,
OTTO H. KAHN,
LUTHER KOUNTZE,
JOHN HOWARD LATHAM,
DAVID H. MOFFAT,
SIDNEY F. TYLER,
J. H. PARKER,
*Board of Directors.*

*Resolutions of Directors.*

WHEREAS, it is proposed by the holders of a majority in amount of the shares of the capital stock of The Western National Bank of the City of New York, and of the National Bank of the United States in New York, that the said banks be consolidated by the purchase by The National Bank of the United States of all the assets of this bank at the book value thereof, as shown by this bank's statement of its assets and liabilities on the date of such sale, and the assumption by The National Bank of the United States of the liabilities of this bank, of the date of such sale, as shown by such statement;

RESOLVED, that in the opinion of this board it is desirable, and for the best interests of the shareholders of this bank, that such proposed consolidation be made, and accordingly that this bank be placed in voluntary liquidation, under the provisions of sections 5220 and 5221 of the United States Revised Statutes, such liquidation to take effect on the 31st day of January, 1903;

RESOLVED, FURTHER, that a special meeting of the stockholders of this bank be and is hereby called, to be held at its banking house, 15 Nassau street, New York city, on the 13th day of January, 1903, for the purpose of voting on the following propositions:

To place this Bank in voluntary liquidation, under the provisions of sections 5220 and 5221 of the United States Revised Statutes, such liquidation to take effect on the 31st day of January, 1903; and to authorize and approve the sale of all the assets of this Bank at the book value thereof, as shown by the Bank's statements of its assets and liabilities of the date of such sale, and the assumption by The National Bank of the United States of all the liabilities of this Bank, as shown by such statement;

RESOLVED, FURTHER, that thirty days' notice of the proposed meeting be given to each shareholder of record, by publication in at least one newspaper published in the City of New York.

RESOLVED, FURTHER, that Wm. A. Wheelock, Thomas D. Jordan and Bainbridge Colby (neither of whom is a director or officer or employee of this Bank), be and they are hereby authorized to

request each stockholder to constitute them and either of them as proxy, agent and attorney, to vote and act at said meeting of the stockholders upon the foregoing propositions, and that a proxy be enclosed with the notice of the meeting, to be mailed to each stockholder, in the form submitted to and approved by this meeting.

RESOLVED, FURTHER, that the transfer books of the shares in the capital stock of this Bank be closed at 3 o'clock p. m on the 6th day of January, 1903, and remain closed until 10 o'clock a. m. on the 15th day of January, 1903.

It appears from this circular that the Board of Directors of The Equitable Society accepted the conditions for this merger, which in substance were to deliver to each stockholder for every $100, par value, of stock, $70 in cash and $140 at par in the consolidated bank, or to pay to each stockholder who did not come into the consolidation for each $100 in stock, $600 in cash. The Equitable Society, through its Executive Committee, voted to accept the offer of $70 in cash and $140 in the stock of the consolidated bank. The Western National Bank of the United States was afterwards merged into the National Bank of Commerce.

It also appears from this statement that what the Society really received for its stock in the Western National Bank of New York was $210 per share, and it would have been much more profitable to the Society to have disposed of its holdings at the offered $600 per share, or better still to have sold its controlling interests for $700 a share, and it appears further that in the merger, the book value of the stock of the Western National Bank of New York being $245 per share, it received $35 a share on its 12,000 shares or holdings less than the book value, which Mr. Snyder stated was a correct statement. Mr. Snyder was asked what The Equitable Society really gained by the merger, and he answered "Nothing but promises and prospects," which I conclude did not materialize, as he afterwards stated that the present book value of the National Bank of Commerce stock was between 145 and 150. The merger and the

organization of this great bank seems to have been effected to gratify the ambition of the officers of The Equitable Society, without regard to the financial interests of the Society and its policyholders.

This is a brief statement of a few of the transactions between The Equitable Society and seven of the ten corporations which are advertised as affiliated companies. Time has not permitted even a partial investigation of its business relations with the other three, viz.: The Lawyers' Title Insurance Company, the Lawyers' Mortgage Insurance, and the Franklin National Bank. But the facts here stated disclose a very decided tendency on the part of some of the directors and officers of the Society to sacrifice its interests in order that they may reap the profits through the media of these corporations. The opportunity was there as well as the disposition, and it would require a much more thorough investigation than I have been able to make to determine the full amount of the loss that the Society has suffered at their hands.

### Syndicate Transactions.

The syndicate transactions conducted by "James H. Hyde and Associates," have been so well advertised through the press that they have become notorious. According to the evidence of William H. McIntyre, the letters of Kuhn, Loeb & Company to Mr. Hyde and Mr. Hyde's correspondence, copies of which he submitted to us, the following are the material facts relative to these transactions:

### Metropolitan Street Railway Four Per Cent Bonds of 2002, Syndicate.

On June 11, 1902, Kuhn, Loeb & Co., allotted to James H. Hyde and Associates a participation in this syndicate of $1,000,000, at 94 and interest. June 18, 1902, the Executive Committee of The Equitable Society recommended the purchase of $1,000,000 of these bonds at 97½ and interest. June 20, 1902, the purchase of these

bonds was reported to the Executive Committee at 97½ and interest, less ½ per cent, and on July 8, 1902, the bonds were delivered to the Society by Kuhn, Loeb & Company. From this transaction James H. Hyde and Associates realized profits of $30,210.38, which were divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| Equitable Trust Company..... | $100,000 | $3,021 03 |
| Western National Bank..... | 100,000 | 3,021 03 |
| Commercial Trust Company, Philadelphia ..... | 100,000 | 3,021 03 |
| Franklin National Bank, Philadelphia ..... | 100,000 | 3,021 03 |
| V. P. Snyder..... | 50,000 | 1,510 52 |
| H. C. Deming..... | 50,000 | 1,510 52 |
| G. H. Squire..... | 100,000 | 3,021 03 |
| James W. Alexander..... | 150,000 | 4,531 58 |
| James H. Hyde..... | 150,000 | 4,531 58 |
| W. H. McIntyre..... | 100,000 | 3,021 03 |
| | | $30,210 38 |

PHILADELPHIA, BALTIMORE AND WASHINGTON 4 PER CENT BONDS AND LONG ISLAND RAILROAD 4 PER CENT BONDS SYNDICATE.

On October 28, 1903, Kuhn, Loeb & Co. allotted to James H. Hyde and Associates a participation in this syndicate of $600,000. On October 30, 1903, the matter of buying some of these bonds was referred to the President and Vice-President with power. On November 18, 1903, the committee recommended the purchase of $1,000,000 of the Philadelphia, Baltimore & Washington bonds from Kuhn, Loeb & Co., at 104 and interest, and on November 20, 1903, the purchase of $1,000,000 of these bonds at 104 and interest was reported. By the purchase of $1,000,000 of the Long Island Railroad refunding bonds the cost of the former bonds was reduced to 102½.

From this transaction James H. Hyde and Associates realized a profit of $11,930.55, which was divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $150,000 | $2,982 64 |
| James H. Hyde | 150,000 | 2,982 64 |
| George H. Squire | 150,000 | 2,982 64 |
| W. H. McIntyre | 150,000 | 2,982 63 |
| | | $11,930 55 |

OREGON SHORT LINE REFUNDING MORTGAGE 4 PER CENT 25-YEAR GOLD BONDS SYNDICATE.

On October 28, 1904, Kuhn, Loeb & Co. allotted to James H. Hyde and Associates a participation in this syndicate of $1,250,000, at 96 and accrued interest. On November 2, 1904, the Executive Committee of The Equitable Society recommended the purchase of $1,000,000 of these bonds at 97 and interest, and soon thereafter $1,250,000 were purchased from Kuhn, Loeb & Co. at 97 by the Society. Mr. McIntyre explains that the syndicate made some profit in the way of commissions on the sales.

From this transaction James H. Hyde and Associates realized a profit of $25,047.46, which was divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $625,000 | $12,523 73 |
| James H. Hyde | 625,000 | 12,523 73 |
| | | $25,047 46 |

P., C., C. & ST. LOUIS RAILWAY CONSOLIDATED MORTGAGE FOUR PER CENT. GOLD BONDS SYNDICATE.

On September 26, 1904, Speyer & Company and Kuhn, Loeb & Company allotted to James H. Hyde and Associates a partici-

pation in this syndicate of $500,000 at par and interest. On October 14, 1904, the Equitable Society bought from Kuhn, Loeb & Company $1,000,000 of these bonds at 103.

From this transaction James H. Hyde and Associates realized a profit of $10,261.46, which was divided as follows:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $250,000 | $5,130 73 |
| James H. Hyde | 250,000 | 5,130 73 |
| | | $10,261 46 |

NORFOLK AND WESTERN DIVISIONAL FIRST LIEN AND GENERAL MORTGAGE FOUR PER CENT. BONDS SYNDICATE.

On October 14, 1904, Brown Brothers & Co. allotted to James H. Hyde and Associates a participation of $250,000 in this syndicate at 94½ and interest. On October 17, 1904, the Executive Committee of the Equitable Society recommended the purchase of $250,000 of these bonds at 96½ and interest, less ¼ per cent. commission.

From this transaction James H. Hyde and Associates realized a profit of $3,758, which was divided as follows:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $125,000 | $1,879 00 |
| James H. Hyde | 125,000 | 1,879 00 |
| | | $3,758 00 |

IMPERIAL JAPANESE GOVERMENT SIX PER CENT. STERLING LOAN GUARANTEED SYNDICATE.

*First Syndicate.*

May 6, 1904, Kuhn, Loeb & Company allotted to James H. Hyde and Associates a participation in this syndicate of 400,000 pounds, or about $2,000,000 par value. On the same day the Executive Committee of the Equitable Society left the matter of subscrib-

ing for these bonds to Messrs. Alexander and Squire with power. Within a reasonable time thereafter (the exact date does not appear) the Society bought substantially the same amount of these bonds from Kuhn, Loeb & Company.

From this transaction James H. Hyde and Associates made a total profit of $25,635.41, which was divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| Equitable Life Society | $750,000 | $9,613 26 |
| James W. Alexander | 250,000 | 3,204 43 |
| James H. Hyde | 250,000 | 3,204 43 |
| George H. Squire | 250,000 | 3,204 43 |
| W. H. McIntyre | 250,000 | 3,204 43 |
| H. C. Deming | 125,000 | 1,602 22 |
| A. W. Krech | 125,000 | 1,602 21 |
| | | $25,635 41 |

*Second Syndicate.*

As a part of the same transaction Kuhn, Loeb & Company allotted to James H. Hyde and Associates a participation in a second syndicate of these Japanese bonds of $1,200,000.

By this transaction James H. Hyde and Associates realized a profit of $23,424, which was divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| Equitable Life | $450,000 | $8,784 00 |
| J. W. Alexander | 150,000 | 2,928 00 |
| James H. Hyde | 150,000 | 2,928 00 |
| George H. Squire | 150,000 | 2,928 00 |
| William H. McIntyre | 150,000 | 2,928 00 |
| H. C. Deming | 75,000 | 1,464 00 |
| A. W. Krech | 75,000 | 1,464 00 |
| | | $23,424 00 |

IMPERIAL JAPANESE GOVERNMENT SIX PER CENT. STERLING LOAN (SECOND SERIES) SYNDICATE.

On November 3, 1904, Kuhn, Loeb & Company allotted to James H. Hyde and Associates a participation in this syndicate of 400,000 pounds, or about $2,000,000 par value. On December 5, 1904, the Equitable Society purchased $1,600,000, par value of these bonds at 88. It does not appear at what price the syndicate got them, but by this transaction James H. Hyde and Associates realized a total profit of $62,815.13, which was divided according to the sub-allotment as follows:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $180,000 | $28,266 81 |
| James H. Hyde | 180,000 | 28,266 81 |
| Mercantile Trust Company | 20,000 | 3,140 75 |
| Equitable Trust Company | 20,000 | 3,140 76 |
| | | $62,815 13 |

ATCHISON, TOPEKA & SANTA FE FOUR PER CENT SERIAL DEBENTURE BONDS SYNDICATE.

On January 10, 1902, J. P. Morgan & Co. allotted to James H. Hyde and Associates a participation in this syndicate of $500,000 at 94½ and accrued interest.

On January 13, 1902, the matter of buying these bonds was brought up for consideration before the Executive Committee of the Society, and on or about January 15, 1902, the purchase of $1,000,000 of these bonds at prices ranging from 97 to 98½ was reported.

By this transaction James H. Hyde and Associates realized a profit of $11,422, which was divided according to the following sub-allotment:

| | Allotment. | Profit. |
|---|---|---|
| James W. Alexander | $100,000 | $2,284 40 |
| James H. Hyde | 100,000 | 2,284 40 |

| | Allotment. | Profit. |
|---|---|---|
| George H. Squire | $100,000 | $2,284 40 |
| Louis Fitzgerald | 100,000 | 2,284 40 |
| W. H. McIntyre | 100,000 | 2,284 40 |
| | | $11,422 00 |

By simple addition it appears that the gentlemen and corporations associated in these transactions made the following profits:

| | |
|---|---|
| James H. Hyde | $63,731 32 |
| James W. Alexander | 63,731 32 |
| George H. Squire | 14,420 50 |
| William H. McIntyre | 14,420 50 |
| H. C. Deming | 4,576 74 |
| Valentine P. Snyder | 1,510 52 |
| Alvin W. Krech | 3,066 21 |
| Louis Fitzgerald | 2,284 40 |
| The Equitable Trust Co | 6,161 79 |
| The Western National Bank | 3,021 03 |
| The Commercial Trust Co. of Philadelphia | 3,021 03 |
| Franklin National Bank | 3,021 03 |
| Mercantile Trust Co | 3,140 75 |
| Total | $186,107 14 |

The corporations mentioned were taken in and given a small participation because they were "affiliated" with the Equitable Society, and the other associates were interested in their dividends. All of these gentlemen who divided these profits were directors of the Society and six of them members of the executive and finance committees. As syndicators they took these several allotments of securities and as directors of the Society they caused it to purchase of Kuhn, Loeb & Company substantially the same amounts which were allotted to them. To illustrate from the first transaction above set forth: On June 11, 1902, Kuhn, Loeb & Company allotted to James H. Hyde and associates a participa-

tion of $1,000,000 in the Metropolitan Street Railway four per cent. bond syndicate at 94, and one week thereafter the Equitable Society bought the same amount at about 97. This participation was allotted to these men because it was known they could dispose of them, and when they accepted the participation they knew where they could sell them. Why should the officers of the Society make this three per cent. profit? Why not allow the Society itself this participation and save this $30,000, since it was the intention that it should buy the bonds and take the risk? That was not contrary to its rules, for it was given a small participation in some of these syndicates. The simple truth is that they preferred to make these several profits themselves.

Mr. Hyde and associates raise the point that the Society did not lose by the purchase of these bonds, but that is no excuse for them. If the market went down the Society would have lost and if it went up the Society should get the profit. They were trustees. Their first obligation was to the trust estate which they represented. They should not be permitted to make money for themselves at the loss or even at the risk of the Society. The profits which they and each of them realized belong to the Society. Mr. Hyde and Mr. Alexander seem to have thought so, or were so advised by their counsel after the trouble began, for one of these gentlemen turned over to M. Murray as Trustee all, and the other a large part, of his profits from these transactions. All these men should be compelled to pay back to the Society these several amounts with interest. This is only very mild punishment. And the affiliated companies should also pay to the Society the several amounts received by them less any portions thereof which the Society has received in the form of dividends.

This question was put to Mr. Alexander on the witness stand: "Were you in the syndicate?" And he answered: "Mr. Hyde managed these matters on his own voluntary part and put me down for a share. When the matter came complete I turned what I made over to the cashier. Whether there is any legal question about it or not, it seemed to me a questionable thing for

an officer to participate in a syndicate that was making money by selling bonds concurrently to the company." He further explains that he did not know at the time that The Equitable Society was buying any portion of the bonds or securities in which James H. Hyde and Associates were allotted participation, and he claims he was conscious of no wrong or a violation of his duty as an officer of the Society. Mr. Hyde insists that Mr. Alexander was aware of the transactions which were being made and knew from what source the profits came. He put in evidence photographs of eight checks drawn by himself to Mr. Alexander in payment of Mr. Alexander's profits in these eight transactions, and he produced a letter and states other facts by which he claims that Mr. Alexander was not in ignorance as to the character of the business being done. He does not plead ignorance of the facts on his own part, but insists that they were entirely legitimate and proper business transactions. Mr. McIntyre, who was a very candid and exact witness, stated all the facts fully and completely. He has not returned to M. Murray, Trustee, or to anybody else, any part of his profit, but makes the argument that since he was not at that time a member of the Executive or Finance Committees he is entirely blameless, and that his part in the transaction was entirely honorable and legitimate. His comprehension as to the duties of a director toward his trust estate is not surprising, for he was reared in the Society since the age of fourteen, and under the immediate tutelage of the late Henry B. Hyde.

### Other Stock Transactions.

The schedules prepared and verified by the Financial Secretary of the Society of the purchases and sales of the stock of the Mercantile Trust Company and of the Equitable Trust Company disclose some peculiar and unusual business transactions. During the years 1903 and 1904 it appears from this schedule that the Equitable Society was a frequent purchaser of the stock of the Equitable Trust Company at from $640 to $750 a share, and dur-

ing the same period of time it was disposing of these securities to various individuals at about $500 a share. In the schedule furnished of the stock transactions of the Mercantile Trust Company it appears that as early as 1900 the Equitable Society was a purchaser of the stock of that company at $800 a share and during the years 1904 and 1905 it has been a frequent purchaser of the stock of that company at about $1,000 a share. In the record of sales in 1900, on January 4th is a sale of 100 shares to George J. Gould at $500 a share, and upon the same day 50 shares to Mr. Frick at $850 a share, and on December 20, 1901, 100 shares to M. L. Schiff at $900 a share and on January 3, 1902—fourteen days later—100 shares to E. H. Harriman at $500 a share. These purchases and sales, it appears from the record, were nearly all approved by the finance committee of the Society.

There is one other transaction covering the sale of securities which I call attention to. On November 18, 1904, the Equitable Society re-sold to Kuhn, Loeb & Company $1,123,308, par value, of the first issue of Japanese bonds at 91¾ flat. With the interest which had accrued on them at that time it was practically 91 net. These bonds were purchased from Kuhn, Loeb & Company May 25th and June 30, 1904, at 93½ and interest, a loss in the sale to the Equitable Society of 2½ per cent., amounting in the aggregate to $28,082.70. If they had been held they could have been sold at a very much higher figure. When the inquiry was made of Mr. Schiff in his evidence as to the reason for this sale of bonds, he stated that possibly the Society was preparing to purchase the second issue of Japanese bonds, which I find was correct, for on December 5, 1904, the Equitable Society purchased $1,600,000 par value of the second issue of Japanese bonds, and the total profit realized by James H. Hyde and Associates in this transaction was $62,815.13, not a very advantageous transaction for the Equitable Society but a very profitable one to the James H. Hyde and Associates syndicate.

Mr. Schiff in his evidence was also referred to the matter of the sale on December 25, 1904, to the Equitable Society of $1,000,000 of the Missouri Pacific Gold Fours of 1945 at 94 and

interest by Kuhn, Loeb & Company. He was asked if those were not collateral bonds secured by the stock of the Iron Mountain Railroad and if he thought a collateral bond of that character was a fit investment for a life insurance company. He replied that he thought that ought to be said to the members of the Executive Committee who decided upon the purchase. He stated though that he was perfectly willing to risk his reputation as favoring the purchase, and stated that Kuhn, Loeb & Co. would be willing to take the bonds back at their cost at any time within a week. Later, on my advice, the Executive Committee of the Equitable Society re-sold the bonds to Kuhn, Loeb & Company.

An inquiry was also made of Mr. Schiff in reference to the sale to the Equitable Society of $1,000,000 of the Metropolitan Street Railroad Fours of 2002 at 97½ and interest, less ½ per cent., and he was asked if they were an underlying bond of the Metropolitan system, and he said, No, they were a refunding bond. He was asked if he thought that a refunding bond of a traction company was such a bond as a life insurance company could safely invest in. His reply was that he was very much mistaken if not all life companies had them. An inquiry was then made as to what the present worth of those bonds was and the answer was he believed about 91. The facts are that within the last ten days a reputable firm has offered for sale a large block of these bonds at 89 and interest.

These transactions are referred to simply to show the manner in which the Executive officers have conducted the business of the Society.

### Salaries.

An examination of the Society's salary lists convinces me that the ordinary clerks and employees are not overpaid. So far as I have been able to learn or observe they are faithful and competent and earn their money. The extravagance and waste in the form of personal compensation appear in the salary list of the high executive officers and their immediate and favored assistants.

The following schedule shows the salaries of the executive officers since 1900:

*Executive Department.*

| NAME. | 1900. | 1901. | 1902. | 1903. | 1904. | 1905. |
|---|---|---|---|---|---|---|
| James W. Alexander, Pres.... | $75,000 | $75,000 | $75,000 | $100,000 | $100,000 | $100,000 |
| J. H. Hyde, Vice-Pres..... | 30,000 | 30,000 | 75,000 | 100,000 | 100,000 | 100,000 |
| | | Aug. 1. | | | | |
| G. E. Tarbell, 2d Vice-Pres... | 50,000 | 60,000 | 60,000 | 60,000 | 60,000 | 60,000 |
| G. T. Wilson, 3d Vice-Pres... | 25,000 | 25,000 | 30,000 | 30,000 | 30,000 | 30,000 |
| W. H. McIntyre, 4th Vice-Pres. | 10,000 | 12,000 | 20,000 | 25,000 | 25,000 | 30,000 |
| W. Alexander, Secretary..... | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| H. R. Winthrop, Asst. Sec.... | ..... | ..... | 2,500 | 3,000 | 3,000 | 6,000 |
| J. G. Van Cise, Actuary..... | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 |
| T. D. Jordan, Comptroller.... | 25,000 | 30,000 | 30,000 | 30,000 | 30,000 | 35,000 |
| S. D. Ripley, Treas..... | 18,000 | 18,000 | 18,000 | 18,000 | 18,000 | 18,000 |
| W. D. Bremner, Asst. Treas.. | ..... | ..... | ..... | ..... | 3,600 | 4,800 |
| | | | | | July 1. | |
| F. W. Jackson, Auditor..... | 10,000 | 10,000 | 10,000 | 10,000 | 12,500 | 12,500 |
| | | Oct. 25. | | | May 1. | |
| S. C. Bolling, Supt. of Agencies | ..... | 15,000 | 15,000 | 15,000 | 18,000 | 18,000 |
| J. B. Loring, Registrar..... | 3,500 | 3,500 | 3,500 | 3,500 | 3,500 | 3,500 |
| E. W. Lambert, Med. Dir.... | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| Edward Curtis, Med. Dir.... | 15,000 | 15,000 | 15,000 | 15,000 | 15,000 | 15,000 |
| W. R. Bross, Med. Dir..... | ..... | ..... | ..... | ..... | 12,000 | 12,000 |
| Arthur Pell, Med. Dir..... | ..... | ..... | ..... | ..... | 10,000 | 10,000 |
| M. Murray, Cashier..... | 10,000 | 10,000 | 10,000 | 12,000 | 12,000 | 15,000 |
| R. G. Hann, Asst. Actuary... | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 |
| | | | | Sept. 18. | June 1. | |
| Robert Henderson, Asst. Act.. | ..... | ..... | ..... | 3,200 | 5,000 | 5,000 |
| S. S. McCurdy, Asst. Regis'r.. | ..... | 3,000 | 3,600 | 3,600 | 4,000 | 4,200 |
| A. W. Maine, Asso. Auditor.. | 10,000 | 10,000 | 10,000 | 12,000 | 12,000 | 12,000 |
| | | March 22. | | | | |
| H. R. Coursen, Asst. Auditor. | ..... | 7,500 | 7,500 | 7,500 | 10,000 | 10,000 |
| W. P. Halsted, Collector..... | 6,000 | 6,000 | 6,000 | 3,600 | 3,600 | 3,600 |
| W. E. Johnson, Mort. Regis'r. | ..... | ..... | 7,500 | 10,000 | 10,000 | 10,000 |
| Samuel Frost, Recorder..... | 2,600 | 2,800 | 4,000 | 4,000 | 4,000 | 4,000 |
| Geo. H. Squire, Fin. Man.... | 15,000 | 15,000 | 15,000 | 20,000 | 20,000 | 20,000 |

The following schedule shows the total amounts paid for salaries to executive officers during said period:

| | |
|---|---|
| 1900 | $380,100 |
| 1901 | 422,300 |
| 1902 | 491,100 |
| 1903 | 558,600 |
| 1904 | 613,600 |

These figures show an increase in salaries of executive officers of the Society in 1904 over 1900 of 61.43 per cent.

Mr. Hyde was advanced in salary the most rapidly. He graduated from college in 1898 at the age of twenty-two. In 1900 he drew a salary of $30,000, also in 1901; in 1902 his salary was advanced to $75,000, and in 1903, at the age of twenty-seven, it was jumped to an even $100,000.

The salaries of the president and vice-president were fixed by the Executive Committee. In this case the matter of these salaries was referred to a sub-committee composed of Hon. Chauncey M. Depew and Valentine P. Snyder. The following is a copy of the recommendation of this sub-committee:

"THE EQUITABLE ASSURANCE SOCIETY OF THE UNITED STATES,

120 BROADWAY, NEW YORK, *December* 22, 1902.

VICE-PRESIDENT'S OFFICE.

The undersigned, a committee appointed by the Executive Committee, for the purpose of acting upon the salaries of the officers of the company, have made a careful examination of the subject and decide, that in view of the greatly increased labor and responsibility upon the executive officers, that the salaries of the President and Vice-President be increased $25,000 per annum from and after January 1, 1905.

CHAUNCEY M. DEPEW,
V. P. SNYDER."

Mr. Snyder says all he remembers of the transaction is that one day when the members of the Executive Committee were at lunch in the Society's dining-room Senator Depew placed a paper before him and asked him to sign it, and he did, and that he thought it recommended the increase of Mr. Hyde's salary only. The evidence shows that President Alexander did not ask for an increase, but that Mr. Hyde did, and in order that his salary might be raised the advance in the president's salary was made necessary. It should be borne in mind that in addition to this salary which Mr. Hyde has been drawing from the Equitable Society he has been drawing a salary of $12,000 from the

Equitable Trust Company, $2,500 from the Commercial Trust Company of Philadelphia, $12,500 from the Mercantile Trust Company, and $1,000 from the Mercantile Safe Deposit Company; all told $128,000 a year, although he has spent several months in each year in Europe.

In passing it may not be inappropriate to mention a little matter of directors' and committes' fees. Mr. McIntyre says he is a director in thirteen corporations. A director in the Equitable Society who is on the Executive Committee receives $25 for each meeting, of which there are three each week, amounting to $3,900 a year. He is on other committees, which all told make his fees from the Society $4,480. His committee fees from six of the Society's affiliated companies (three of them in the Equitable Building, and all in New York City), amount to $3,960, making a total of $8,440 from the Society and its affiliated companies. The ordinary policyholder, I imagine, would consider this a pretty fair income.

Mr. Hyde is a director in about fifty corporations and if he attends to his duties as well as he represents, his committee and director fees would amount to many thousands of dollars per annum.

The Society has disbursed the following totals in fees to directors and members of committees:

| | |
|---|---|
| 1900 | $32,670 00 |
| 1901 | 35,390 00 |
| 1902 | 38,805 00 |
| 1903 | 43,805 00 |
| 1904 | 44,995 00 |
| 1905 (to date) | 11,200 00 |

Mr. Hyde prepared a verified statement of his directorships in different corporations, with the dates of his elections. It appears from this paper that he is a member of the Boards of a number of the great railroad corporations of the country, in the most of which he states he is not a stockholder. Mr. Hyde

is not an expert in railroad matters, having had no training in that direction, has had no wide experience and has never demonstrated his ability as a business man, and consequently I conclude that the great railroad managers did not put him on the directorate of their companies for either of these reasons, and the inference is that he has been put on these Boards for the reason that he was the financial head of a great insurance corporation whose assets were so large and whose ready money was always available for the purchase of securities which these great corporations are largely in the market to sell.

### Expenses of Officers.

Mr. Hyde's expense account appears as follows: 1900, $7,176.82; 1901, $6,971.89; 1902, $2,588.24; 1903, $20,517.09; 1904, $15,285.70. These are several times larger than those of any other officer. He did not submit any itemized statements. These lump sums were paid on his vouchers. That seems to have been his practice for when he gave the celebrated Cambon dinner he drew from the Society's treasury $12,800 to pay the bill with no other authority than his own.

### Pension.

An examination of the Society's pension list discloses the fact that Mrs. Hyde, mother of the Vice-President, has been drawing a pension of $25,000 a year since 1900. If Mr. Henry B. Hyde, who certainly worked hard to build up the Society, had died poor or comparatively poor, possibly no objection should be raised to this pension. But it is generally understood that he left a large estate, and his son, James H. Hyde, from the evidence produced in this inquiry, has large holdings of valuable stocks and other securities. It does not appear clearly by whom this pension was authorized, nor is any reason given why it should be allowed. I doubt very much if the officers of the Society have any legal right to give away to Mrs. Hyde this money, which rightfully belongs to the policyholders.

The following is a schedule of the fees paid attorneys in New York by the Society during the past five years:

| | 1900. | 1901. | 1902. | 1903. | 1904. | 1905. |
|---|---|---|---|---|---|---|
| Alexander & Green..... | $27,200 | $27,200 | $15,200 | $15,200 | $43,200 | $43,200 |
| Alexander & Colby..... | 15,000 | 15,000 | 24,000 | 24,000 | 24,000 | 24,000 |
| Chauncey M. Depew..... | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 |
| C. B. Alexander..... | ..... | ..... | 12,000 | 12,000 | ..... | ..... |
| D. B. Hill..... | 7,500 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| Elihu Root..... | ..... | ..... | ..... | ..... | 10,000 | 25,000 |

Several smaller fees have been paid during these years which are not on this schedule.

The following is a schedule of fees paid to attorneys outside of the State of New York during the last five years:

| | |
|---|---|
| 1900 ..... | $47,666 50 |
| 1901 ..... | 60,257 02 |
| 1902 ..... | 31,121 32 |
| 1903 ..... | 62,652 53 |
| 1904 ..... | 30,965 11 |

The bills for services of the attorneys who were retained by the President of the Equitable Society, in the matter in relation to the amended charter and the litigation which followed it, have not yet been presented, but will be a charge upon the Society.

Why were these officers during a long series of years permitted again and again to violate their obligations, and perpetrate so many wrongs against the interests of the Society for their own profit? A little consideration of the organization of the company and its methods of doing business will explain. Henry H. Hyde was an able, far-seeing insurance man. The fifty-two directors whom he selected in the first instance were respectable men of prominence in their several communities. This larger number was not necessary for the transaction of business, but they were useful to give the young society tone and character. The same class of men was continued as directors until the present time, and a little analysis of their personnel and interests may not be inappropriate.

The following thirty-six directors were a few months ago qualified by Hyde stock, viz.: Louis Fitzgerald, William A. Wheelock, H. C. Deming, Cornelius N. Bliss, George H. Squire, Charles S. Smith, V. P. Snyder, C. Ledyard Blair, Brayton Ives, M. E. Ingalls, A. J. Cassatt, E. H. Harriman, Jacob H. Schiff, James J. Hill, T. Jefferson Coolidge, John Jacob Astor, Sir William Van Horne, Gage E. Tarbell, Marvin Hughitt, Henry C. Frick, M. Hartley Dodge, John A. Stewart, Alfred G. Vanderbilt, Levi P. Morton, D. O. Mills, Robert T. Lincoln, George J. Gould, John Sloane, George T. Wilson, Thomas T. Eckert, William H. McIntyre, Samuel M. Inman, H. C. Haarstick, David H. Moffatt, Joseph T. Low, August Belmont.

The following four directors were qualified by Alexander and Jordan stock, viz: James B. Forgan, H. Rogers Winthrop, Bradish Johnson, and Alvin W. Krech.

To qualify a director Mr. Hyde assigned him five shares of stock and immediately took a re-assignment in blank and an order that the dividends on that stock be paid to Mr. Hyde. In the stock book those five shares appear in the name of the director. In the dividend order book an order is entered that the dividends be paid to Mr. Hyde. The director, therefore, has no beneficial interest in the stock which appears in his name. The charter provides that each director "shall be a proprietor of at least five shares of said capital stock." The legal question presented here is for the lawyers and courts to decide, but in my judgment this is not the kind of qualification contemplated in the charter.

The ten directors who actually owned stock in their own right were as follows:

James W. Alexander, James H. Hyde, Chauncey M. Depew, Thomas D. Jordan, Charles B. Alexander, T. DeWitt Cuyler, H. M. Alexander, J. F. DeNavarro, William Alexander, John J. McCook.

There were two vacancies.

The Executive Commitee for the years 1903 and 1904 were, James H. Hyde, Chairman, James W. Alexander, William A.

Wheelock, Chauncey M. Depew, Valentine P. Snyder, H. C. Deming, Thomas D. Jordan, and George H. Squire.

Of these, Mr. Alexander was drawing a salary of $100,000 per annum; Mr. Depew a salary of $20,000 per annum; Mr. Jordan a salary of $30,000 per annum; Mr. Squire a salary of $15,000 per annum; Mr. Snyder was President of the National Bank of Commerce, an affiliated company.

Mr. Deming was President of the Mercantile Trust Company of which the Society own the stock control. Therefore, all of these associate members except possibly Mr. Snyder were absolutely dependent upon the Chairman, Mr. Hyde, for their salaries, for he dominated the Society by reason of his stock control. Mr. Wheelock was one of Mr. Hyde's qualified directors.

He is an elderly gentleman about 87 years of age, and is now paralyzed and unable to do any work or business. On February 16, 1905, after the internal dissentions had arisen, the Board of Directors undertook to infuse some new blood into this committee and made it up as follows: James H. Hyde, Chairman; James W. Alexander, Gage E. Tarbell, George T. Wilson, William H. McIntyre, Thomas D. Jordan, W. A. Wheelock, C. M. Depew, V. P. Snyder, H. C. Deming, A. W. Krech, H. C. Frick. The new men on the committee are Gage E. Tarbell, Second Vice-President and dependent on Mr. Hyde for his position; George T. Wilson, Third Vice-President and dependent on Mr. Hyde for his position; W. H. McIntyre, Fourth Vice-President and dependent on Mr. Hyde for his position; A. W. Krech, President of The Equitable Trust Company and dependent on Mr. Hyde for his position, for Mr. Hyde and The Equitable Society own a majority of its stock. Mr. H. C. Frick is the only man who on the record is not under obligations to Mr. Hyde, and he is qualified by Hyde stock. He was Chairman of the Committee which submitted the Frick report and resigned from the Board of Directors immediately thereafter.

The Executive Committee transacts all the important business of the Society. The Finance Committee is composed of exactly the same men as the Executive Committee with one additional

director, viz.: Mr. Jacob H. Schiff, senior member of the firm of Kuhn, Loeb & Co., which has sold to the Equitable Society, according to its reports, since January 1, 1900, $47,522,000 of bonds and $1,780,000 of stock.

The duties of the Finance Committee are perfunctory.

The Executive Committee votes to buy or sell real estate, make leases, raise salaries, buy or sell bonds or stocks. Those transactions are closed before they reach the Finance Committee. The same men as members of the Finance Committee approve their action as members of the Executive Committee. The only power they have is to advise that the bonds or stocks already bought and paid for be sold at a profit or loss according to the condition of the market. Of course they cannot repudiate or revise ordinary contracts which are closed.

The Board of Directors at the beginning of this year was composed of prominent and distinguished men, who are successful in their various fields of activity. But most of them paid little attention to their duties and obligations as trustees of this very important trust. The annual and quarterly meetings were not largely attended. They seem to have taken no very active interest in the affairs of the Society. The mildest thing which can be said of them is that they were indifferent and careless in the discharge of their obligations and responsibilities.

## THE EXECUTIVE OFFICERS.

### Mr. James W. Alexander.

President Alexander has been connected with this Society for almost a life time. He has heretofore had the respect and confidence of all who knew him. In his testimony he stated that he was not conscious of any wrong-doing and that he was led to participate in the syndicate transactions of James H. Hyde and Associates by Mr. Hyde without giving the matter such serious consideration as it deserved. The uncontroverted testimony was that he was a participant in them and accepted his share of the profits. He executed the leases that proved to be so detrimental to the Society's interests. He was cognizant of, and ap-

proved the various subsidiary undertakings which we have criticised and by reason thereof has failed to meet the obligations imposed upon him as chief officer of the Society, and it is an open question whether he is not disqualified under section 36 of the Insurance Law from hereafter holding any office in a life insurance company, as well as all the other officers and directors who participated in these unlawful transactions.

### Mr. James H. Hyde.

Mr. Hyde, on the death of his father, became the owner of 502 shares of the Equitable Society stock and acquired 35 additional shares, making a good working majority. He knew this and others were quickly made aware of it. He did not hesitate to extract from the Society's treasury $352,500 for his stock in the Missouri Safe Deposit Company, made valuable only by the outrageous leases with the parent Society. He permitted the Society to lose heavily in its business transactions with the Commercial Trust Company of which he is a salaried officer and a large stockholder. He was very active in promoting the transactions by which the present Equitable Trust Company was developed, and he thereby profited largely and became Vice-President at a liberal salary. By reason of the Equitable Society's control of the Mercantile Trust Company he became Vice-President of that institution with a good salary. He has been accustomed to buy large amounts of securities and involve the Society in other important ventures without authority. He has carried large holdings of the Society's stocks in his own name. He exacted salaries out of all proportion to his age, ability or the value of his services, and caused those of his immediate friends and favorites to be unduly advanced. He is mainly responsible for the extravagant salaries allowed many executive officers. He has been accustomed to draw large sums for expenses on his own unitemized vouchers. In fact, he has not seemed to consider himself accountable to anyone for the expenditure of the Society's funds. He introduced and conducted the syndicate transactions and involved others with himself. He forced himself on boards of direction, and into business

relations with prominent men, by the aggressive assertion of his stock control of the Equitable Society, and by those means he gradually assumed dominition of the Society's affairs until the presidency was reduced to a position of secondary importance. His authority continued to increase and he proceeded to use the Society and its assets more and more as if they were his own, until he was checked by the demand for mutualization and his retirement. The policyholders are under great obligations to Mr. Alexander and the other executive officers for taking this step.

### Mr. Gage E. Tarbell.

The following charges have been made against Mr. Tarbell by some of the other executive officers:

That he has been extravagant in the administration of the Agency Department.

That he has encouraged or connived at rebating.

That during several months last past he has been allowing to agents four dollars a thousand for new insurance in addition to the regular percentage, without consulting the Executive Committee.

That just before this controversy he received from the Society $135,000 cash in settlement of his claim for commuted commissions in the Chicago agency.

That he encouraged insubordination by inducing executive officers and heads of departments and even clerks to sign a petition against the Vice-President, and that he has been instrumental in circulating literature criticising and slandering certain officers of the Society, in direct violation of a resolution of the Executive Committee.

On these charges I find that in the year 1900 a new system was inaugurated, by which the percentage of first premiums on new business allowed to agents was reduced from sixty to fifty per cent. This made it very difficult for the field agents to compete with those of other large companies, who allowed their agents larger percentages, and therefore the advances to them were increased in order that they might live and continue in the service

of the Society. I doubt if the increased advances amount to as much as 10 per cent. of the first premiums on new business saved, and therefore the Society is not a loser.

Mr. Tarbell swears that he has not even connived at rebating, but that on the contrary he has always denounced and tried to stop it, and no evidence has been adduced in support of this allegation by those who made it.

Mr. Tarbell admits that during the last few months he has been allowing to agents four dollars per thousand on new insurance in addition to the regular percentage, and says this was done after consultation with, and approval of, the President. It does not appear to be a bonus in the ordinary sense of that word, but an extra compensation to sustain the agency force during these trying times. That may have been an error in judgment, but there is much excuse for Mr. Tarbell in striving to keep up the business of the Society and retain its agents.

It appears that the sum of $135,000 paid Mr. Tarbell, was computed in the Auditor's department as the amount due him for his commuted commissions and no evidence has been adduced showing that he was over-paid.

Mr. Tarbell denies that he was instrumental in or encouraged the circulation of literature in criticism of other officers of the Society, and no substantial evidence appears in support of this or the other charges preferred against him.

## Investments.

I think it important that the next Legislature should take into consideration the question of the investment of the funds of life insurance companies and establish a standard of investment. As to just how far or to what extent they should be restricted in their investments I am not prepared to offer an opinion at this time. Doubtless that question will be studied and thought out by the time of the next annual meeting of the Legislature. There can be no question, however, of the wisdom of prohibiting the investment of the funds of life insurance companies in subsidiary moneyed and business corporations controlled by life companies,

which occasion the carrying of large balances for the benefit of those companies and for the stockholders who are largely associated in the management of the Society. The suggestion that these large balances were carried for the purpose of enabling the Society to avail itself of the opportunity to purchase securities at a low price is not sustained from the fact that large balances were carried during the years 1903 and 1904, when securities could have been purchased at a much lower level or the money loaned at much higher rates than were being paid by the affiliated companies. If life insurance is to commend itself to the people to provide for those who are left behind, it is important that the business of the insurance companies be conducted on strictly business lines and that extravagance of management and large salaries should be reduced within proper limits.

### The Society's Control.

During the progress of this investigation a change in the stock control of the Society has been made, and three trustees have been empowered under a deed of trust to partially mutualize the Society; that is, it is provided that 28 of the directors should be elected by the policyholders and 24 by the stockholders, with the promise that there would be a reduction in the expenses of the company, and that the managers would institute other reforms in the management of the Society which would inure to the benefit of the policyholders. I do not question but what this is the honest intention of those who have acquired the control of the stock of the Society. I do not think, however, that this will go far towards restoring the confidence of the present policyholders or aid in procuring new business for the Society. In my opinion the only thing that will restore that confidence and benefit the company will be the elimination of stock control, and what I deem of equal importance, the elimination of Wall Street control. I early came to the opinion and so expressed myself to the Legislature in the Department's annual report this year, that all the surplus accretions of this Society beyond the seven per cent. dividends on the stock belong to the

policyholders. The Charter provides that the business of the Society should be conducted on the mutual plan, and provides that each policyholder shall be credited with an equitable share of the surplus. And I am confirmed in my opinion by an examination of the statements that were made early in the existence of this Society to the Insurance Department, verified under oath by the President of the Society, that it was a purely mutual company and that all its surplus should be divided in an equitable manner among the policyholders, and still further by an examination of the affidavits made on behalf of the Society to the Commissioner of Taxes and Assessments of the City of New York, containing the statement that no surplus earnings belonged to the stockholders, and that all the accumulations of the Society are held for the benefit of the assured and are free from taxation.

No superficial measures will correct the existing evils in this Society. A cancer cannot be cured by treating the symptoms. Complete mutualization with the elimination of the stock, to be paid for at a price only commensurate with its dividends, is, in my opinion, the only sure measure of relief.

This report, with a copy of the evidence taken on this investigation, will be transmitted to the Attorney-General for such action thereon as he may deem proper.

Respectfully submitted.

Francis Hendricks

*Superintendent of Insurance.*

# ADDENDA.

## EXHIBIT I.

This Indenture, made the ninth day of January, one thousand eight hundred and eighty-three,

Between The Equitable Life Assurance Society of the United States, a corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter designated as lessor), party of the first part, and The Mercantile Safe Deposit Company, a corporation created under the laws of the State of New York (hereinafter designated as lessee), party of the second part,

Witnesseth, That the said party of the first part, as lessor, does hereby lease unto the said party of the second part, and the said party of the second part does hereby hire and take, as lessee, the rooms shown on the diagrams hereto annexed and marked C and D, respectively, situated in the basement of the building owned by the said lessor in the City of New York, situated on Broadway, Cedar and Pine streets, and known as the Equitable Building (which diagrams are made part of this lease for the purpose of designating the premises in said basement hereby leased), together with so much of the cellar of said Equitable Building as lies beneath the said rooms and is shown on the said diagram marked D, and the vaults under the sidewalks of the Broadway and Cedar street sides of said Equitable Building, as shown by said diagram, and also the cellar of the building owned by said lessor and known as the Law Library Building, and as shown on said diagram marked D.

To Have and to Hold the said rooms, vaults, cellars and premises with the safes and appurtenances therein for the term of years to commence on the first day of July, one thousand eight hundred and eighty-one, and to end on the first day of January, one thousand nine hundred and one, with the right and privilege

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

to said lessee, its successors or assigns, to terminate and surrender this lease at the expiration of ten years from the date thereof upon giving to the lessor a previous notice in writing of six months of its or their intention to so terminate the same,

YIELDING AND PAYING therefor yearly and every year during the term hereby granted unto the said lessor, its successors or legal representatives, the yearly rent or sum of fifteen thousand dollars during the whole term hereby granted, to wit: from the first day of July in the year of our Lord one thousand eight hundred and eighty-one to the first day of January in the year of our Lord one thousand nine hundred and one; and if the net amount received by the lessee as rent or compensation for the use or hire of safes in the great iron vaults, shown on the diagrams A and B hereto annexed, upon the demised premises, which shall be rented out (such amount to be ascertained by deducting from the whole amount so received the total expenses of the said lessee), shall amount to so much in any year of the term hereby created that one-half thereof shall exceed fifteen thousand dollars, then and in every such case said lessee agrees to pay to said lessor as rent at the end of such year so much in addition to the said rent of fifteen thousand dollars per annum as shall with the said fifteen thousand dollars make such rent for such year a sum equal to such one-half. It being the intention and agreement of the parties hereunto, and the said lessee hereby covenanting and agreeing that the said rent due and payable hereby shall be fifteen thousand dollars per annum in any event, and so much more as may be necessary with the said fifteen thousand dollars to equal one-half of the net receipts by said lessee from the rent of safes in the aforesaid iron vaults shown on the diagrams marked A and B after deducting the total expenses of the said lessee, if one-half of such net receipts shall exceed fifteen thousand dollars per annum.

All the rent to be paid in lawful money of the United States and said fifteen thousand dollars in quarter yearly payments on the fifteenth days of January, April, July and October in each and every year until the expiration of said term at the principal office of the said lessor in the City of New York, the last quarter's

rent being payable fifteen days after the expiration of the term. It being understood and agreed that the rent over and above said fifteen thousand dollars shall be measured by the net income, calculated as aforesaid from the rental or compensation for the use or hire of the said safes in the aforesaid iron vaults during the year ending December thirty-first in each and every year respectively during the continuance of this lease, and shall be payable on the fifteenth day of January next following for each year ending on said thirty-first day of December then last past; said payments when paid shall be in full for all rent to be paid to the lessor.

And it is Hereby Understood and Agreed, that if at any time or times during the continuance of this lease the said lessor shall be of the opinion that the expenses of the said lessee above allowed to be deducted from the rental of the safes in the aforesaid iron vaults for the purpose of measuring the amount of rent payable hereunder are too large, on the demand of the said lessor there shall be appointed three arbitrators, one to be selected by the said lessor, one by the said lessee, and one, an umpire, by the two persons so chosen as aforesaid, whose duty it shall be to thoroughly investigate all said expenses and outgoings of the said lessee and who shall report with all reasonable promptitude what action shall be taken by the parties hereto with reference to the matter. And it is hereby expressly understood and agreed that the decisions and recommendations of the said arbitrators so chosen shall be accepted and faithfully carried out by the parties hereto without delay.

And the said lessor for the considerations aforesaid hereby covenants and agrees to and with the said lessee, that the said lessor will, at its own expense and charges, alter, furnish and fit up and keep the same fitted up, cleaned, painted and furnished in a proper and suitable manner as will most promote the business of the said lessee, the rooms herein and hereby leased and will, from time to time during the continuance of this lease, erect and fit up at the expense of the said lessor as many safes and of such description as may be necessary for the use of the said lessee in

its business. And will also alter, furnish and fit up and keep the same furnished, cleaned, painted and fitted up in the best manner such portions of the cellars and of the vaults under the sidewalks as shown on the diagram hereto annexed marked D for the use of said lessee in such a manner as shall be required by the general business of said lessee when called upon so to do by said lessee. And all repairs shall be at the expense of the said lessor, not however including the refitting locks throughout the premises.

It being understood that the foregoing provisions as to the amount of rental are intended only as a method of determining the amount of rent hereby reserved, and that this instrument shall not be construed as in any wise creating a partnership between the parties hereto, nor as giving to the lessor any interest in the business of the lessee or any part thereof, nor as giving the lessor any specific lien upon or right to the receipts from the rents of safes or any part thereof.

The above lease is upon the following conditions, all and every one of which the said lessee for itself, its successors and assigns, covenants and agrees to and with the said lessor, its successors and assigns, to keep and perform.

First. That the lessee will, from time to time, during the said term in good faith and diligently prosecute the business of renting out safes upon the demised premises to such extent as the premises afford suitable room for and as there shall be demand for and at the best attainable rents.

Second. In case of the non-payment of the said rent at the said times and place, or in case the said lessee shall make default in the performance of any of the other covenants and conditions herein contained on its part to be performed or fulfilled, or the said premises shall be deserted or vacated, that said lessor shall have the right to re-enter upon the demised premises either by force or otherwise without being liable to any prosecution therefor, and thenceforth to have and to hold the same as of its first and former estate and therefrom to terminate this lease.

Third. Said lessee shall quit and surrender said premises at the end of said term or the termination of any renewal of the said

lease in as good condition as the reasonable use thereof will permit, and all alterations, additions or improvements, including office furniture, shall be the property of the said lessor and shall remain upon and be surrendered with the premises as a part thereof at the termination of this lease, whether such termination be by lapse of time or otherwise, without disturbance, molestation or injury.

Fourth. If during the term of this lease the said Equitable Building or the premises hereby leased be injured by fire or otherwise so as to interfere with the business of the said lessee the said lessor agrees to restore the same and if the said injury is caused by the lessor or its servants the lessor agrees to allow such damages to the lessee as it shall have suffered in consequence of such interference—the amount of such damages to be determined by arbitration if not agreed upon by the parties hereto, their successors or assigns.

In case the said Equitable Building shall be totally destroyed by fire and said lessor shall not rebuild or replace said building, then and in such case this lease and all rights of the parties under the same shall cease and terminate. But in case of such total destruction if the said lessor shall rebuild or replace said building it will if desired by the lessee, its successors or assigns, restore the said leased premises to the same condition as at the time of such destruction and when restored this lease shall continue in full force until the end of the term herein provided for, but no rent shall be paid by the lessee during the period between the date of such destruction and the time when such leased premises shall be restored as herein provided.

Fifth. Said lessor will keep in the hereby leased premises a warming apparatus affording sufficient heat for use from the tenth day of October in each year of this lease to the twentieth day of May following, and will furnish sufficient gas or electric light or other suitable means for lighting said leased premises, and will cause said premises (excepting the vaults and places of deposit) to be cleaned and properly cared for by the Janitor of its building.

Sixth. And it is further agreed that any difference which may arise as to the construction of this lease or any part thereof shall be referred to the decision of three persons to be selected as follows—one by the said lessor, one by the said lessee and an umpire to be selected by the said two persons chosen as aforesaid by the parties hereto—the decision of the said three persons or if they shall not all agree, of a majority of them, shall be rendered with reasonable promptitude and shall be final and conclusive upon the parties.

Seventh. It is further understood and agreed that there shall be a monthly statement rendered by the said lessee to the said lessor, which shall give a full statement of the number of safes under rental and the amount of income derived from the rental or compensation for the use of the safes in the two great vaults aforesaid, and the total expenses calculated as hereinbefore provided to be deducted in measuring the rent. This statement to be made out and written upon a blank to be furnished by the said lessor.

Eighth. And the said lessee further agrees that said lessee will at all reasonable times give information with regard to such portion of its affairs as will enable said lessor to be fully cognizant of its rights in the premises.

Ninth. It is understood that the corporate existence of the said lessee will terminate in the year one thousand nine hundred and twenty-five, but it is the desire and intention of both parties to these presents that there should be a renewal and continuance of such corporate existence, either by such legislation as will secure such continuance, or in default of such legislation that a new corporation should be formed having the same or similar powers and franchises as are now held by the lessee, and which shall become the successor in interest of said lessee, and that the said leased premises should continue to be used for the purposes hereinbefore specified for a further period of fifty years from the termination of this lease.

And the said lessor does hereby covenant and agree to and with the said lessee, that in case the corporate existence of the said

lessee shall be lawfully renewed or continued for an additional period of fifty years, or if a corporation shall be formed at or before the time the corporate existence of said lessee shall terminate, which shall succeed to or be the assignee of the remainder of the term hereby granted, and shall also possess the same or similar rights, powers or franchises as are now possessed by the said lessee, and said lessee or said new corporation shall elect or take a renewal or continuance of this lease and a new lease for an additional period of fifty years upon the same terms, conditions and agreements as are herein contained, then and in such case the said lessor will execute to said lessee or its assignee or successor a new lease of said premises hereby leased for such additional term of fifty years, upon the same rents, covenants and agreements as are herein contained.

Tenth. It is the intention of both the parties to this lease that the premises hereby demised, shall after the expiration of the period of the new or continued lease provided for in the ninth subdivision hereof be again leased to the lessee or its assignee or successor in interest for an additional period of fifty years, provided the said lessee or its successor in interest or assignee shall be in law capable of taking such renewed lease.

And it is Mutually Agreed by and between the parties to these presents that if said lessee or its assignee or successor in interest being so capable of taking such lease, shall desire such new or further lease of said premises, and the lessor and said lessee or its assignee or successor shall not be able to agree upon the terms thereof, then on the demand of said lessee or its assignee or successor there shall be appointed three arbitrators, one to be selected by the said lessor, one by said lessee or its successor and one an umpire by the two persons so chosen as aforesaid, who shall decide what action shall be taken by the said parties in reference to the matter. And it is hereby expressly understood and agreed that the decision of the said arbitrators so chosen, or the decision of any two of them if all three are unable to agree, shall be accepted and faithfully carried out by the said lessor and by said lessee or its said successor in interest.

Eleventh. It is Mutually Agreed by and between the parties to these presents that upon the final termination of this lease, or of any renewal or continuance thereof or of any new lease made in pursuance of the provisions herein contained whether said termination shall arise from a termination by lapse of time or by a surrender thereof as herein provided for, the said lessor shall purchase from said lessee, its successors in interest or assignee, the good will of the business of said lessee, its successors or assignee, at said premises and shall pay therefor such sum as shall be then mutually agree upon by the parties in interest at that time. And in case said sum cannot be so agreed upon then the same shall be fixed and determined by arbitration, the arbitrators to be selected in the same manner as is hereinbefore provided for in case of failure of the parties to agree, and the decision of said arbitrators or of a majority of them, if all three shall not agree, shall be final and shall be accepted as binding on such parties and the lessor shall pay to the lessee, its successors in interest or assignee, the sum so determined by said arbitrators as the value of such good will. Or if said lessee shall demand a further continuance of said lease, that the terms of the same shall be settled by arbitration in like manner.

In Witness Whereof the said lessor has caused its corporate seal to be hereunto affixed, and these presents to be signed by its Vice President and Secretary, and the said lessee has caused its corporate seal to be hereunto affixed and these presents to be signed by its President and Secretary, the day and year first herein written. In duplicate.

(Signed) THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE U. S.
by James W. Alexander, *Vice-President.*
(seal) W. Alexander, *Secretary.*

(Signed) THE MERCANTILE SAFE DEPOSIT CO.
Lyman Rhoades, *President.*
(seal) E. M. Billings, *Secretary.*

# EXHIBIT II.

THIS INDENTURE, made the first day of January, in the year eighteen hundred and eighty, between the Equitable Life Assurance Society of the United States (a corporation created under the laws of the State of New York) hereinafter designated as the Lessor, party of the first part, and the Equitable Safe Deposit Company (a corporation duly established under the laws of Massachusetts, and having its usual place of business in Boston, in said Commonwealth) hereinafter designated as the Lessee, party of the second part:

1. WITNESSETH: That in consideration of the covenants, herein contained, on the part of the said party of the second part, and its representatives, to be kept and performed, the said party of the first part doth hereby grant, demise and lease unto the said party of the second part, its successors and assigns, the rooms numbered 4 and 5, and the vaults, fixtures and furniture therein, in the basement and cellar stories of the building known as the Equitable Life Assurance Society's Building, situated on the southeast corner of Milk and Devonshire streets, and other premises adjoining thereto, in the City of Boston and Commonwealth of Massachusetts, being the portion marked red on the annexed diagrams marked A and B, and the said adjoining premises marked C respectively; (that marked C being the cellar and first and second stories of the building Nos. 7 and 9 Federal street, belonging to Charlotte A. Johnson and adjoining the Equitable Building, and subject to the lease made to The Equitable Life Assurance Society by the said Charlotte A. Johnson;) to be used for the purposes of the corporation and for similar purposes; with the right to use, free of charge, in common with others, the elevators in said building, and the water closets on the said premises.

2. And the Lessor covenants and agrees with the Lessee, its executors, administrators and assigns, that it will at its own expense heat, light, furnish water and keep neat and clean the stairs, entries, and water closets in said building, and also the premises marked A, B, and C on the annexed diagrams.

3. To have and to hold the said rooms and other premises, hereby demised, with the rights, easements and appurtenances thereto belonging, unto the party of the second part, its successors and assigns, from the first day of January, in the year eighteen hundred and eighty, during the full term of twenty-five years thence next ensuing, including and counting said first day of January as part of said term; that is to say, the said term shall be regarded as commencing on and with said first day of January, A. D. 1880, and as ending on the first day of January, A. D. 1905, unless sooner terminated, as hereinafter provided, yielding and paying (except only in case of fire and other casualty as hereinafter mentioned) the rent or sum of one hundred dollars per year for each year of the said term, payable in yearly payments; the first payment to be made on the thirty-first day of December, 1880; and if this lease should terminate for any cause between two rent days, a proportionate part of said annual rent to be paid up to such termination; provided, moreover, that in each and every year during the term of this lease in which the net income from the rental of boxes, safes and places of deposit in the two interior great vaults of the company, calculated as hereinafter set forth, received by the lessee shall exceed the sum of sixteen thousand dollars ($16,000) one-half of said excess over said sixteen thousand dollars ($16,000) shall be paid as additional rent to the lessor until the said one-half excess amounts, with the one hundred dollars aforesaid, to the sum of twenty thousand dollars ($20,000), which sum shall be the maximum rent to be paid to the said lessor in any one year. It being the intention of this agreement: 1st. That the lessors shall receive in any event the above specified rent of one hundred dollars. 2d. That the lessees shall next, if the net receipts shall be sufficient therefor, receive sixteen thousand dollars ($16,000) per year. 3d. That next, all the net receipts above sixteen thousand dollars ($16,000) shall be equally divided between said lessor and lessee, until the lessor's rent reaches the sum of twenty thousand dollars ($20,000) per year, as above stipulated. Provided, however, that in case the amount to be paid to the lessor in any one

year does not amount to twenty thousand dollars ($20,000) then nothing shall be paid to said lessor from the receipts of any succeeding year on account of such deficiency.

4. All the rent to be paid at the principal office of the said lessors in the City of New York, in lawful money of the United States. It being understood and agreed that the rent, over and above said amount of one hundred dollars, shall be payable on the twenty-fifth day of January next following, for each year ending on the first day of January then last past.

5. To determine the net income for the purposes of this agreement, the accounts of the lessee, for all moneys received by it for the rent of boxes, safes and places of deposit in the two interior great vaults of the Company, and for all moneys expended by it in the conduct of its business, except the amounts paid as dividends and interest shall be made up each year during the continuance of this agreement, to and including the thirty-first day of December, and the sum of money remaining after deducting the expenditures from the receipts as above described, shall be considered the net income for said year.

6. And if at any time or times during the continuance of this lease the said lessor, its successors or assigns, is of the opinion that the expenditures of the said lessee are too large, it is hereby understood and agreed that on the demand of the said lessor, its successors or assigns, there shall be appointed three arbitrators, one by the said lessor, its successors or assigns, one by the said lessee, its successors or assigns, and one by the two persons so chosen as aforesaid. In case the said lessee shall neglect to appoint an arbitrator after ten days' demand in writing by said lessor, its successors or assigns, the said lessor, its successors or assigns, shall have the right to appoint two arbitrators who shall choose a third.

7. It shall be the duty of said arbitrators to hear the parties and thoroughly investigate all said expenditures of the said lessee, its successors or assigns, and report with all reasonable promptitude, giving each party reasonable notice of the time and place of hearing, what action shall be taken by the parties hereto

with reference to the matter; and it is hereby expressly agreed that the decisions and recommendations of a majority of the said arbitrators so chosen shall be final and conclusive upon the parties.

8. And the said lessor, its successors and assigns, for the consideration aforesaid, hereby covenants and agrees to and with the said lessee, its successors and assigns, that the said lessor, its successors and assigns, will, at its own expense and charges, alter, furnish and fit up in a proper and suitable manner, all the rooms herein and hereby leased, according to the schedule hereto annexed and marked X; and will, from time to time, during the continuance of this lease, erect and fit up, at the expense of the said lessor, its successors and assigns, as many safes and of such description as may be in the opinion of both lessee and lessor, their successors and assigns, necessary for the use of the said lessee in its business; line the interior of the lower granite vault with steel or otherwise, in the most approved manner, whenever the same shall be required for safes, and will also alter, furnish and fit up in the best manner, such portions of the cellars and of the vaults under the sidewalks and the adjoining premises leased from the said Charlotte A. Johnson for the use of said lessee, as shall be in the opinion of both lessee and lessor, their successors and assigns, required by the business of said lessee, its successors or assigns. And all extraordinary repair shall be at the expense of the said lessor, its successors or assigns, not, however, including minor repairs such as refitting locks and replacing window glass. And in case of any disagreement between the said lessor and lessee, their successors and assigns, with regard to this article (paragraph 8) the same rule for arbitration as provided in paragraphs 6 and 7 above, shall be applied, provided that on demand of the lessee, its successors or assigns, there shall be chosen three arbitrators, one by the lessee, its successors or assigns, one by the lessor, its successors or assigns, and one by the two so chosen, and in case the lessor, its successors or assigns, shall neglect after ten days demand in writing, to appoint an arbitrator, the lessee, its successors or assigns, shall have the right to appoint two arbitrators who shall appoint a third arbitrator.

9. It being understood that the foregoing provisions as to the amount of rental are intended only as a method of determining the amount of rent hereby reserved; and that this instrument shall not be construed as in any wise creating a partnership between the parties hereto, nor as giving to the lessor any interest in the business of the lessee, or any part thereof, nor as giving the said lessor any specific lien upon or right to the receipts from the rent of safes, or boxes, or places of deposit in the great vaults, or any part thereof.

10. And the said lessee, for itself and its successors and assigns, hereby covenants and agrees to and with the said lessor, its successors and assigns, that said lessee, its successors and assigns, will, during the said term, and for such further time as it or any other person or persons claiming under it shall hold the said premises, or any part thereof, pay unto the said lessor, its successors or assigns, the said rent, as aforesaid (except only in case of fire or other casualty, as hereinafter mentioned).

11. And the said lessee, its successors and assigns, further covenants and agrees to and with the said lessor, its successors and assigns, that it will keep all and singular the said premises in as good repair as the same are in at the commencement of said term, or may be put in during the continuance thereof, reasonable use and wearing thereof and damage by fire or other inevitable casualty excepted; that it and its clerks, servants and agents will in all things observe and perform the rules and regulations in regard to the said building, printed upon the back of this lease, and to which this lease is especially made subject; and further that it will indemnify and save harmless the said lessor, and those having its estate in the premises, for all loss and damage occasioned by the negligent use or misuse or abuse of the Cochituate water, or of the water fixtures or of the steam heating apparatus, or of the lighting apparatus by the said lessee or by those having its estate in the premises, or by any person or persons claiming under it, and at its own cost and charge pay for all such damage.

12. And the said lessee for itself, its successors and assigns, further covenants and agrees to and with the said lessor, its successors and assigns, as a condition of this lease, that said lessee

or those having its estate in the premises, will not make or permit to be made, any alterations or additions during the term aforesaid, in or to the said demised premises or any part thereof that shall violate any of the provisions of the said lease of Charlotte A. Johnson to the lessor of the building containing a part of the demised premises, or that shall be injurious to the main building of the lessor; and also, that it shall be lawful for the said lessor and those having its estate in the premises, and for any agent or attorney authorized thereto by it, at all reasonable times to enter into and upon the same, to examine the conditions thereof, and make all needed repairs; and further that the said lessee and those having its estate in the premises, shall and will, at the expiration of the said term or termination of its interest and estate in the demised premises, peaceably yield and give up unto the said lessor or those having its estate therein, all and singular, the premises, and all fixtures and future erections and additions to or upon the same, in good order and condition in all respects, reasonable wearing and use thereof and damage by fire and other casualties excepted.

13. Provided always, and these presents are upon this condition, that if the said lessee or its representatives or assigns do or shall neglect or fail to perform and observe any or either of the covenants contained in this instrument, which on its part are to be performed, or if the said lessee shall be declared bankrupt or insolvent, according to law, or if any assignment shall be made of its property for the benefit of creditors, or if said term, or the lessee's interest therein, or in the demised premises, shall be attached or taken on execution, or upon any legal process, then, and in either of the said cases, if said breach shall continue for thirty days after notice of the same given in writing by the lessor, or those having its estate in the premises to the lessee, or those having its estate in the premises, the lessor, or those having its estate in the premises, lawfully may, immediately, or at any time thereafter, and whilst such neglect or default continues, and without further notice or demand, except as aforesaid, enter into or upon the said premises, or any part

thereof, in the name of the whole, and repossess the same as of its former estate, and expel the said lessee and those claiming under it, and remove its effects (forcibly if necessary) without being taken or deemed guilty of any manner of trespass, and without prejudice to any other remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and that thereupon this lease shall, if the lessor so elect, determine, cease, and be at an end.

14. It is further hereby expressly agreed, that if any merchandise or property that may be in the premises during said term shall be injured or destroyed by water or otherwise, no part of such loss or damage shall be borne by the lessor, unless the same shall occur by reason of the carelessness or negligence of any servant or agent of the lessor, or otherwise; also, that the said lessee will use no chemical burning fluids or alcohol in lighting said premises; also, will pay all extra insurance on the building, if any be required, on account of extra risk in the use of the premises thus leased, and in no way whatever will invalidate any policies of insurance on the same.

15. And the said lessor, its successors or assigns, covenants and agrees with the said lessee, its successors and assigns, that it and they paying the rent and charges aforesaid, and performing the covenants herein contained, on its and their part to be paid and performed, shall peaceably hold and enjoy the said demised premises, until the end of said term or such earlier determination of this lease as is hereinbefore provided.

16. It is further understood and agreed that there shall be a quarterly statement rendered by the said lessee, its successors and assigns, to the said lessor, its successors or assigns, which shall give a full statement of the number of safes under rental, and the amount of income derived from the rental or compensation for the use of safes or places of deposit, and the expenses above allowed to be deducted in measuring the rent. This statement to be made out and written upon a blank to be furnished by the said lessor. And the said lessee, for itself, its successors and assigns, further agrees that the said lessee, its successors and assigns, will, at all reasonable times, give information with regard

to such portion of its affairs as will enable said lessor, its successors or assigns, to be fully cognizant of its rights in the premises.

17. It is further agreed that if the said lessee, its successors or assigns, shall, in writing, give notice to said lessor, its successors or assigns, on or before the first day of October, A. D., one thousand nine hundred and four, of its desire to renew this lease for twenty-five years from said first day of January, A. D., 1905, then the lessor, its successors or assigns, shall so renew this lease, upon the same terms and with all its covenants, except the agreement set forth in this paragraph (No. 17).

18. It is further agreed, that if the said lessee, its successors or assigns, shall, in writing, give notice to said lessor, its successors or assigns, on or before the first day of October, A. D., one thousand nine hundred and twenty-nine, of its desire to renew this lease for twenty-five years from the first day of Januuary, A. D., 1930, then the lessor shall so renew this lease upon the same terms and with all its covenants, except the agreements set forth in this and the preceding paragraphs (Nos. 17 and 18).

19. It is further agreed that if the said lessee shall in writing give notice to said lessor on or before the first day of October, A. D., one thousand nine hundred and fifty-four, of its desire to renew this lease for twenty-five years from the first day of January, A. D., 1955, then the lessor shall so renew this lease upon the same terms and with all its covenants, except the agreements set forth in this and the preceding paragraphs (Nos. 17, 18 and 19).

20. And it is further agreed that if the said Lessee, its successors or assigns, shall, in writing, give notice to said Lessor, its successors and assigns, on or before the first day of October, A. D. 1979, of its desire to renew this lease for one hundred years from the first day of January, A. D. 1980, then the Lessor, its successors and assigns, shall so renew this lease upon the same terms and with all its covenants, except the agreements set forth in this and the preceding paragraphs (Nos. 17, 18, 19 and 20). And as to the estate leased to Charlotte A. Johnson. Provided,

however, that if the said Lessor shall, on or before the first day of January, A. D. 1980, have paid to the Lessee for its good will a sum of money equal to six times the gross receipts of the said Lessee during the year of 1979, then the said Lessor shall be under no obligation to grant the last mentioned renewal.

21. The said Lessor, its successors or assigns, shall have the right, if at any time it or they shall sell the said building, or that the whole or any part of the demised premises or of the buildings of which they form a part, shall be taken for a street, or for any public use or shall be destroyed or damaged by fire or other casualty during said term to terminate this lease on payment of such a sum as shall be equal to six times the gross receipts of the said Lessee, or its successors or assigns, for the year next preceding the said sale. Provided, however, in the event of such sale or other termination as aforesaid that the said sum to be so paid shall be at least equal to the sum of two hundred thousand dollars.

In Witness Whereof, the said Lessor has hereunto caused its corporate seal to be affixed and the same to be signed by Henry B. Hyde, its President, and the said lessee has hereunto caused its corporate seal to be affixed and the same to be signed by E. L. S. Hammond, its Treasurer, the day and year first above mentioned.

Signed, sealed and delivered
in the presence of
(Signed) Samuel W. Bates.

[L. S.]
SEAL OF THE EQUITABLE LIFE ASSURANCE SOCIETY

(Signed) HENRY B. HYDE, *President*
*Equitable Life Assurance Society of the United States.*

Attest. (Signed) SAMUEL BORROWE, *Secretary.*

(Signed) E. L. S. HAMMOND, *Treasurer of Equitable Safe Deposit Company.*

[L. S.]
SEAL OF THE EQUITABLE SAFE DEPOSIT CO.

# EXHIBIT III.

AGREEMENT, made this eighth day of November, 1888, between The Equitable Life Assurance Society of the United States, party of the first part, and The Security Safe Deposit Company, party of the second part:

Whereas, The party of the first part heretofore executed a lease to the Equitable Safe Deposit Company, bearing date the first day of January, 1880, of certain premises located on Federal and Milk streets in the City of Boston, for the use of the said Equitable Safe Deposit Company in carrying on its business; and

Whereas, the party of the second part hereto has succeeded to the rights of the said Equitable Safe Deposit Company under said lease; and

Whereas, the party of the first part has now constructed a new building at the corner of said Federal and Milk streets in the City of Boston connected with the building, including the premises covered by the aforesaid lease, and the party of the first part has agreed to lease to the party of the second part the basement and ground floor of said new building:

Now therefore this AGREEMENT Witnesseth: That the party of the first part, in consideration of the premises, and of the terms and conditions for the payment of rent provided for in said lease does hereby lease to the said party of the second part said basement and ground floor of said new building, the same to be added to and become a part of the premises included in and covered by said lease.

The consideration for the lease of said basement and ground floor to be of the same character and to the same extent in regard to said basement and ground floor as are provided for in said lease of January 1, 1880.

The true intent of this agreement being that said basement and ground floor of said new building shall be and become part of the premises covered by said lease, the same as though they had been included in it at the time of the execution thereof.

And the party of the second part in consideration of the agreement of the party of the first part herein contained agrees to

accept the lease of said basement and ground floor of said new building upon the same terms and conditions with regard to the payment of rent and of all other matters as are contained in said lease of January 1, 1880.

It is further specially agreed by and between the parties hereto, that the said lessor shall have the right to supply its own janitor of said premises, or to have the same taken care of by a janitor to be provided by the lessee upon such terms as may be agreed upon between the parties hereto, making an allowance to the Security Safe Deposit Company.

In Witness Whereof, the said lessor has caused its corporate seal to be hereunto affixed, and these presents to be signed by its Vice-President and Secretary, and the said lessee has caused its corporate seal to be hereunto affixed and these presents to be signed by its President and Secretary, the day and year first herein written. In duplicate.

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE U. S.

(Signed) by James W. Alexander, *Vice-President.*

(Signed) W. Alexander, *Secretary.*

[seal]

THE SECURITY SAFE DEPOSIT COMPANY,

(Signed) by Ezra Farnsworth, *President.*

(Signed) E. L. S. Hammond, *Treasurer.*

[seal]

STATE OF NEW YORK,
City and County of New York, } *ss.:*

Be it Remembered that on this 8th day of November, A. D. 1888, before me, A. R. Fullerton, a Notary Public of the State of New York, in and for the county of Kings, certificate filed in New York County and residing in said county of Kings, personally appeared James W. Alexander, the Vice-President of the Equitable Life Assurance Society of the United States, and William

Alexander, the Secretary of the same society, to me respectively and personally known to be such, did depose and say, that he, said James W. Alexander, resided in the City of New York, New York, that he, said William Alexander, resided in the City of New York, New York, that he, said James W. Alexander, was the Vice-President of the said Society, and that he, said William Alexander, was the Secretary of the said Society, that they know the corporate seal of said Society, that the seal affixed to the annexed instrument is such corporate seal, that it was so affixed thereto by the order of the Board of Directors of said Society, and that they, the said James W. Alexander and William Alexander signed their names thereto by the like order, as Vice-President and Secretary of the said Society respectively.

And the said James W. Alexander as Vice-President, and William Alexander as Secretary above mentioned, further acknowledged to me that they had executed the said instrument to be their free and voluntary act and deed of said Society for the uses and purposes therein expressed.

In witness whereof, I have hereunto set my hand and affixed my official seal on the day and year above written.

[SEAL]

(Signed) A. R. FULLERTON,
*Notary Public, Kings County.*
(Certificate filed in New York County.)

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## EXHIBIT IV.

THIS INDENTURE, made the ninth day of November, 1888, between The Equitable Life Assurance Society of the United States, a corporation organized and existing under the laws of the State of New York, herein designated as lessor, party of the first part, and The Missouri Safe Deposit Company, a corporation created under the laws of the State of Missouri, herein designated as the lessee, party of the second part, WITNESSETH:—

WHEREAS, by a certain indenture of lease, bearing date the second day of January, 1886, the party of the first part hereto did

lease unto the Mercantile Trust Company certain rooms in and portions of the building owned by the said party of the first part, and known as the Equitable Building, located on the northwest corner of Locust and Sixth streets, in the City of St Louis, in the State of Missouri; and,

Whereas, the said indenture of lease was duly assigned by the said The Mercantile Trust Company to the party hereto of the second part; and,

Whereas, the party of the second part, lessee as aforesaid, has asked that the rooms and portions of the building known as the Equitable Building in the City of St. Louis, in the State of Missouri, and now held by the said lessee under the terms of the said lease bearing date the second day of January, 1886, be more fully described, and the lessor having consented thereto; and,

Whereas, both parties to the said lease desire certain other changes in the terms thereof:

Now Therefore this Indenture Witnesseth, that the said indenture of lease, bearing date the second day of January, 1886, is by mutual agreement cancelled, and the party of the second part hereto does hereby surrender the same, which surrender is accepted by the lessor hereinbefore named, and the following is substituted and accepted by both parties hereto as the lease of said rooms and portions of said building, in place of the covenants, agreements, and provisions in said surrendered lease contained, namely:

1. That in consideration of the covenants herein contained on the part of the said party of the second part and its representatives, to be kept and performed, the said party of the first part doth hereby grant, demise, and lease unto the said party of the second part, its successors and assigns, the following described rooms and portions of the building known as the "Equitable Building," and situated on the northwest corner of Locust and Sixth streets, in the City of St. Louis and State of Missouri, to-wit: Rooms D, E, F, G, H, I, J, K, and L in the basement of said building, as shown on diagram "A," hereto annexed and colored red thereon, and vaults 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, in the sub-basement of said building, as shown on diagram "B," hereto

annexed and colored red thereon; to be used for the purposes of the corporation, and for similar purposes, with the right to use, free of charge, in common with others, the elevators in said building and the water-closets on said premises.

2. And the lessor covenants and agrees with the lessee, its successors, legal representatives and assigns, that it will, at its own expense heat, light, furnish water and keep neat and clean the stairs, entries, and water-closets in said building, and also the premises marked on the annexed diagrams.

The said lessor shall have the right to supply its own janitor of said premises, or to have the same taken care of by a janitor to be provided by the lessee upon such terms as may be agreed upon between the parties hereto, making an allowance to the lessee for such services.

3. To have and to hold the said rooms and other premises hereby demised with the rights, easements, and appurtenances thereto belonging unto the party of the second part, its successors and assigns, from the first day of April, 1886, during the full term of twenty-five years thence next ensuing, including and counting said first day of April as part of said term; that is to say, the said term shall be regarded as commencing on and with said first day of April, A. D., 1886, and as ending on the thirty-first day of March, A. D., 1911, unless sooner terminated as hereinafter provided, yielding and paying (except only in case of fire or other casualty as hereinafter mentioned), the rent sum of one hundred ($100) dollars per year, for each year of the said term, payable in yearly payments, the first payment to be made on the thirty-first day of March, 1887; and if this lease should terminate, for any cause, between two rent days, a proportionate part of said annual rent to be paid up to such termination.

Provided, moreover, that in each and every year during the term of this lease in which the net income from the rental of boxes, safes, and places of deposit in the interior great vault of the Company, calculated as hereinafter set forth, received by the lessee shall exceed the sum of twenty thousand ($20,000) dollars, one-half of said excess over said twenty thousand dol-

lars shall be paid as additional rent to the lessor, so long as such rents continue to exceed the sum of twenty thousand dollars, during the continuance of this lease (until the said one-half excess amounts, with the one hundred dollars aforesaid, to the sum of twenty thousand dollars, which sum shall be the maximum rent to be paid to the said lessor in any one year). It being the intention of this agreement: 1. That the lessors shall receive, in any event, the above specified rent of one hundred dollars. 2. That the lessors shall next, if the net receipts shall exceed the sum of twenty thousand dollars, receive one-half of the excess of said rents above said sum of twenty thousand dollars per year. 3. That next, all the net receipts above twenty thousand dollars shall be equally divided between said lessor and lessee, until the termination of this lease, but not to exceed $20,000 to the lessor in any one year. Provided, however, that in case the amount to be paid the lessor in any one year does not amount to twenty thousand dollars, then nothing shall be paid to said lessor from the receipts of any succeeding year on account of such deficiency.

4. All the rent to be paid at the principal office of the said lessor in the City of New York, in lawful money of the United States, it being understood and agreed that the rent over and above said amount of one hundred dollars shall be payable on the first day of April for the year ending on the thirty-first day of March then last past.

5. To determine the net income for the purposes of this agreement, the accounts of the Lessee for all moneys received by it for the rent of boxes, safes, and places of deposit in the great vault of the company, and for all moneys expended by it in the conduct of its business, except the amounts paid as dividends and interest, shall be made up each year during the continuance of this agreement to and including the thirty-first day of March, and the sum of money remaining after deducting the expenditures from the receipts as above described, shall be considered the net income for said year.

6. And if, at any time or times during the continuance of this lease, the said lessor, its successors or assigns, is of the opinion

that the expenditures of the said lessee are too large, it is hereby understood and agreed that upon demand of the said lessor, its successors or assigns, there shall be appointed three arbitrators, one by the said lessor, its successors or assigns, one by the said lessee, its successors or assigns, and one by the two persons so chosen, as aforesaid. In case the said lessee shall neglect to appoint an arbitrator after ten days' demand in writing by the said lessor, its successors or assigns, the said lessor, its successors or assigns, shall have the right to appoint two arbitrators, who shall choose a third.

7. It shall be the duty of said arbitrators to hear the parties and thoroughly investigate all said expenditures of the said lessee, its successors or assigns, and report with all reasonable promptitude, giving each party reasonable notice of the time and place of hearing, what action shall be taken by the parties hereto with reference to the matter.

And it is hereby expressly agreed that the decisions and recommendations of a majority of the said arbitrators so chosen shall be final and conclusive upon the parties.

8. The said lessor agrees that it will, during the continuance of this lease, pay all taxes and assessments on said property, or which may be levied or due from the lessee to any state, community or municipality; that it will pay all expenses of protecting said property hereby leased; that it will at its own expense make all repairs, replacements, and additions, if the business requires it, to the said premises, and the appurtenances, including vaults, safes, locks, desks, signs, carpets, and all other property and that on the demand of the lessees it will, if the business justifies it, increase at its own expense the facilities for doing business on such premises by making the additions aforesaid, it being understood that the persons who shall guard the said premises and the clerks shall be employed and paid by the lessee.

9. It being understood that the foregoing provisions as to the amount of rental are intended only as a means of determining the amount of rent hereby reserved, and that this instrument shall not be construed as in any wise creating a partnership

between the parties hereto, nor as giving to the lessor any interest in the business of the lessee or any part thereof, or any control thereof, nor as giving the said lessor any specific lien upon or right to the receipts from the rents of safes, or boxes, or places of deposit in the great vaults, or any part thereof.

10. And the said lessee, for itself, and its successors and assigns, hereby covenants and agrees to and with the said lessor, its successors and assigns, that during the said term and for such further time as it or any other person or persons claiming under it shall hold the said premises or any part thereof, will pay unto the said lessor, its successors or assigns, the said rent as aforesaid, except only in case of fire or other casualty as hereinafter mentioned.

11. And the said lessor, its successor and assigns, further covenants and agrees to and with the said lessee, its successors and assigns, that it will keep all and singular the said premises in as good repair as the same are in at the commencement of said term, damage by fire or other inevitable casualty excepted. The said lessee agrees that the clerks, servants, and agents, will in all things observe and perform the rules and regulations in regard to the said building, which from time to time, may be enacted.

12. And the said lessee, for itself, its successors and assigns, further covenants and agrees to and with the said lessor, its successors and assigns, as a condition of this lease, that the said lessee or those having its estate in the premises, will not make or permit to be made any alterations or additions during the term aforesaid, in or to the said demised premises or any part thereof, that shall violate any of the provisions of the said lease, or that shall be injurious to the building or the said lessor.

And, also, that it shall be lawful for the said lessor, and those having its estate in the premises, and for any agent or attorney specifically authorized in writing thereto by it at all seasonable times to enter into and upon the same to examine the conditions thereof and make all needed repairs. And, further, that the said lessee, and those having its estate in the premises, shall and will, at the expiration of the said term, or expiration of its interest

and estate therein, surrender all and singular the premises and all fixtures and future erections and additions to or upon the same in good order and condition in all respects, reasonable wearing and use thereof and damage by fire or other casualties excepted.

13. Provided, always, and these presents are upon this condition, that if the said lessee or its representatives or assigns, do or shall neglect or fail to perform or observe any or either of the covenants contained in this instrument which on its part are to be performed, after six months notice of the same given in writing by the lessor, or those having its estate in the premises, to the officers and directors of the Missouri Safe Deposit Company, or those having its estate on the premises, and while such neglect or default continues, and without further notice or demand except as aforesaid, the said lessor may enter into or upon the said premises or any part thereof, in the name of the whole, and repossess the same as of its former estate, and expel the said lessee and those claiming under it, and remove its effects (forcibly if necessary) without being taken or deemed guilty of any manner of trespass and without prejudice to any other remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and that thereupon this lease shall, if the lessor so elect, determine, cease, and be at an end.

14. And the said lessor, its successors and assigns, covenants and agrees with the said lessee, its successors and assigns, that the said lessee (they paying the rent and charges aforesaid and performing the covenants herein contained on its and their part to be paid and performed) shall peaceably hold and enjoy the said demised premises until the end of said term or such earlier determination of this lease as is hereinafter provided.

15. It is further understood and agreed that there shall be a quarterly statement rendered by the said lessee, its successors or assigns, to the said lessor, its successors or assigns, which shall give a full statement of the number of safes under rental, and the amount of income derived from the rental or compensation for the use of safes or places of deposit, and the expense above allowed to

be deducted in measuring the rent, this statement to be made out and written upon a blank to be furnished by the said lessor.

And the said lessor, for itself, its successors and assigns, further agrees that said lessee, its successors or assigns, will, at all reasonable times, give information with regard to such portion of its affairs as will enable said lessor, its successors or assigns, to be fully cognizant of its rights in the premises.

16. It is further agreed that if the said lessee, its successors or assigns shall, in writing, give notice to said lessor, its successors or assigns, on or before the first day of January, A. D. 1911, of its desire to renew this lease for a further term of fifty years from the said first day of April, A. D. 1911, then the lessor, its successors or assigns, shall so renew this lease upon the same terms and with all its covenants, except the agreement set forth in this paragraph No. 16.

17. It is further agreed that if the said lessee, its successors or assigns, shall in writing give notice to the said lessor, its successors or assigns, on or before the first day of January, 1961, of its desire to renew this lease for fifty years from the first day of April, 1961, then the lessor shall so renew this lease upon the same terms and all its covenants, except the agreement set forth in this and the preceding paragraphs Nos. 16 and 17.

18. The said lessor, its successors or assigns, shall have the right, if, at any time, it or they shall sell the said building, or if the whole or any part of the demised premises or of the buildings of which they form a part, shall be taken for a street or for any public use, or shall be destroyed or damaged by fire or other casualty during said term, to terminate this lease on payment of such a sum as shall be equal to six times the gross receipts of the said lessee, or its successors or assigns for the year next preceding the said sale.

Provided, however, in the event of such sale or other termination as aforesaid, that the said sum so paid shall be at least equal to the sum of two hundred thousand dollars.

In witness whereof, the said lessor has caused its corporate seal to be hereunto affixed, and these presents to be signed by

its Vice-President and Secretary, and the said lessee has caused its corporate seal to be hereunto affixed and these presents to be signed by its President and Secretary the day and year first herein written. In duplicate.

THE EQUITABLE LIFE ASSURANCE SOCIETY
OF THE UNITED STATES,

[SEAL] (Signed) By JAMES W. ALEXANDER,
*Vice-President.*

(Signed) W. ALEXANDER,
*Secretary.*

THE MISSOURI SAFE DEPOSIT COMPANY,

[SEAL] (Signed) By JAMES JAUNCEY HOYT,
*President.*

Attest:

(Signed) J. S. KENDRICK, *Secretary.*

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## EXHIBIT V.

THIS AGREEMENT, made this twentieth day of December, 1894, between The Equitable Life Assurance Society of the United States, a corporation organized and existing under the laws of the State of New York, party of the first part and The Missouri Safe Deposit Company, party of the second part, witnesseth,

WHEREAS, The Equitable Life Assurance Society of the United States made a lease on the second day of January, 1886, to The Mercantile Trust Company, which lease, together with other premises subsequently by an agreement dated the ninth day of November, 1888, came into possession of the party of the second part,

NOW THIS AGREEMENT WITNESSETH, That for and in consideration of one dollar to it in hand paid, the receipt whereof is hereby acknowledged, the parties hereto hereby agree that the description contained in said lease and said subsequent agreement be so amended and changed as to include the rooms M and N indicated on the diagram, which is hereto annexed and forms

a part of this agreement, such additional space being held under terms and conditions of the original agreement and the amendments thereof and the same to be held without further cost or rental to the party of the second part.

In Witness Whereof, The said lessor has caused its corporate seal to be hereunto affixed and these presents to be signed by its Vice President and Secretary, and the said lessee has caused its corporate seal to be hereunto affixed, and these presents to be signed by its Vice President and Secretary the day and year first herein written in duplicate.

(Signed) JAMES W. ALEXANDER,
*Vice President.*

[SEAL] (Signed) W. ALEXANDER,
*Secretary.*

(Signed) PASCHALL CARR,
*Vice President.*

[SEAL] (Signed) J. S. KENDRICK,
*Secretary.*

[REFERRING TO PAGE 38]

I wish to correct an error in this preliminary report. In the discussion of the syndicate transactions the report says, "All these gentlemen (including Mr. Alvin W. Krech, President of the Equitable Trust Company) who divided these profits were directors of the Society and six of them members of the Executive and Finance Committees." Mr. McIntyre, testifying as to the particular syndicates in which Mr. Krech participated, said, "The two men in that list, Mr. McIntyre and Mr. Krech, were not members of either the Executive or Finance Committees."

Furthermore, in the letter from Mr. Hyde to Mr. Frick, a copy of which was served on me, red stars appear before the names of Mr. McIntyre and Mr. Krech, calling special attention to the following footnote: "(Not member of Executive or Finance Committees)". Mr. McIntyre was a director of the Society and the inference was drawn by the Frick Committee, as well as myself, that Mr. Krech was also. However, since the publication of the report, I have received the certificate of Mr. Hyde that these syndicate transactions were closed on July 13, 1904, and the certificate of William Alexander, Secretary of the Society, that Mr. Krech was first elected a director on August 3, 1904. It follows, therefore, that his participations in the syndicate transactions were terminated twenty-one days before he became a director.

I am pleased to make this correction.

FRANCIS HENDRICKS,

*Superintendent of Insurance.*

Dated ALBANY, *June* 26, 1905.

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